

Department of Justice and Equality /  
An Garda Síochána  
Working Group on Review of Firearms  
Licensing

Report of  
November 2014

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# Department of Justice and Equality / An Garda Síochána Working Group on Review of Firearms Licensing

## 1. Introduction

In September 2013 the Secretary General of the Department of Justice and Equality (DOJE) proposed the setting up of a Working Group to review firearms licensing. The Commissioner of An Garda Síochána agreed to the Secretary General's proposal to establish a Joint Department of Justice and Equality (DOJE) / Garda Síochána Working Group to address firearms licensing issues, following concerns raised by the Garda Commissioner in relation to this area and in particular with regard to issues concerning the continued licensing of handguns.

The Terms of Reference for the Working Group were as follows:

- To examine key policy, legislative, administrative or other issues which impact on the effective implementation of firearms legislation by the Department and An Garda Síochána – the review to have regard in particular to public safety, including issues relating to handguns and assault rifles;
- Recommend key legislative changes to the Firearms Acts and Statutory Instruments (S.I.s) and draft Heads of Bill/S.I.s;
- Recommend any key changes deemed necessary to the Commissioners Guidelines in relation to the Firearms Acts
- Submit an agreed report to Garda Commissioner and Secretary General within 4 months of the first meeting of the group.

Membership of the Working Group was:

Crime 4 Division of DOJE represented by-  
Marion Walsh, Co-Chair of the Group  
Brendan O'Loughlin, Assistant Principal  
John Guinane, Firearms Range Inspector  
Alan King, Secretary to the Group.

An Garda Síochána (AGS) represented by-  
Chief Superintendent Fergus Healy, Garda Headquarters, Co-Chair  
Chief Superintendent John Scanlon, Portlaoise  
Superintendent Matt Nyland and Sergeant Paul Greene, Firearms Policy  
Unit, Garda Headquarters  
Padraig Coburn, Office of Legal Affairs, Garda Headquarters.

The Working Group met on a number of occasions between October 2013 and June 2014, and communicated in relation to the Review on an ongoing basis in the intervening period.

The time-frame for the review was extended from February 2014 to enable the Group to consider issues which emerged as the review was being completed which would impact on the recommendations of the Group, as well as issues raised by shooting/interest groups in March and April 2014.

## **2. Executive Summary**

The Commissioner of An Garda Síochána has raised concerns with DOJE in relation to the continued licensing of certain firearms, in the interests of public safety. Members of the Judiciary have also cited lack of clarity and difficulty in interpretation in existing legislative provisions, as well as raising the question of whether certain firearms should be banned, given the concerns raised by An Garda Síochána in the context of appeals of their decisions to refuse the licensing of such firearms.

This Working Group was therefore set up to examine key policy, legislative and administrative issues which impact on firearms licensing, having regard in particular to public safety. An Garda Síochána recommend the prohibition of certain types of firearms, on the grounds of public safety. It is their view that in particular, centre-fire handguns pose an unacceptable risk to society and should no longer be licensed in this jurisdiction. Such handguns have caused death and injury to humans and are designed for use by the military and police. For example, they have been used in a number of murders and attempted murders in this jurisdiction.

An Garda Síochána recorded 2,198 recorded incidents involving a firearm between 2009 and February 2014. An Garda Síochána have also advised that between 2009 and 2013 there were 96 murders and one case of manslaughter recorded in which firearms were used. In many such cases it is impossible to say (due to the fact that the firearm is often not recovered) whether the firearms used were firearms that had been licensed and subsequently stolen from their owners or whether the firearms were never in fact licensed. In 2013, in the Dublin Metropolitan Region, there were 7 murders in which firearms were used and which are associated with organised crime. The concerns of An Garda Síochána are also based in part on a forward looking assessment of the dangers of an atrocity being carried out with weapons primarily designed to kill human beings, as has unfortunately happened in other jurisdictions.

The Working Group considered the concerns raised and also had regard to legal advices, discussions with sporting bodies, guidelines and legislation from other jurisdictions, an EU Commission report in 2013, and the Firearms Acts 1925 to 2009, in particular the Firearms Act 1925, as amended most recently in 2006 and 2009 (and relevant Statutory Instruments) as well the experience of An Garda Síochána in the practical implementation of the current legislation. The Garda Commissioner's Guidelines as to the Practical Application and Operation of the Firearms Acts, 1925-2009 was another key document considered by the Working Group. These Guidelines will be amended by An Garda Síochána, in conjunction with the Department of Justice and Equality.

Further amendments will take account of decisions made on foot of this draft Working Group Report, and have regard to advices from the Attorney's General Office, as well as the decisions of Government and of the Oireachtas.

In relation to short firearms, it is recommended that centre-fire handguns be prohibited by primary legislation, and that a new "white list" of rim-fire (.22) calibre handguns be compiled (and updated by means of secondary legislation on a regular basis), which will be handguns strictly designed for use in Olympic competitions. Other rim-fire handguns not so listed will be prohibited. A prohibition is also recommended on centre-fire, semi-automatic rifles and shotguns which are capable of holding more than three rounds, due to public safety concerns expressed by An Garda Síochána. It is also recommended that a legislative provision be made to revoke all licences renewed or issued after the date of an announcement by the Minister, in relation to the proposed prohibition. A similar approach was taken in 2008 when the then Minister for Justice announced that no new licences would be issued for handguns and this was provided for in the Criminal Justice (Miscellaneous Provisions) Act 2009.

The Working Group also addressed other issues which could make the licensing system more robust. It is recommended that the grounds for disqualification to hold firearms be expanded to include persons convicted of an offence punishable by a penalty of at least five years for a period of 10 years after the conviction was imposed. A recommendation is also made that a person who is bound by a recognisance to keep the peace or be of good behaviour will be disqualified for the period of the recognisance, regardless of any conditions of the recognisance. The grounds for revocation of firearm certificates are also being expanded to allow for revocation where a certificate has issued in error.

It is recommended that the grounds of appeal to the District Court be expanded to permit an appeal against a condition imposed by a deciding person in relation to firearms certificates, firearms training certificates or authorisations for a rifle or pistol club or shooting range.

An amendment to the Explosives Act 1875 which allows for the reloading of ammunition in specific circumstances is also recommended. This provision is now being introduced to address a lacuna in the law where provisions in the Criminal Justice Act 2006 to allow for the reloading of ammunition were repealed (without being commenced) in the Criminal Justice (Miscellaneous Provisions) Act 2009. No provision was made in 2009 for simultaneous clarification of the existing provisions in the Explosives Act 1875 which permit individuals to legally keep or store a large quantity of gunpowder (30 lbs) for private use without an application for a licence for registration from the local authority.

A provision is recommended to establish a criminal offence for intentionally altering the markings on firearms which is a requirement under the United Nations (UN) Firearms Protocol. Two further amendments are also proposed in order to comply with the UN Firearms Protocol.

It is proposed that the Minister may make regulations which shall specify that a firearm will be marked with the country and year of import, when a firearm is imported into the EU (in this case Ireland) for the first time. It is also proposed that the Minister may make regulations that shall specify the conditions for the destruction of firearms which have been illicitly manufactured or trafficked.

Two suggested amendments are to repeal two sections of the Criminal Justice (Miscellaneous Provisions) Act 2009. These sections were linked to the EU Weapons Directive, which has since been transposed into Irish law (in S.I. 493 of 2010) without the need to commence these two sections and they can therefore be repealed.

On foot of the recommended legislative amendments being implemented, An Garda Síochána will also put in place a scheme whereby the owners of firearms which are to be prohibited can surrender their firearms to An Garda Síochána.

### **3. Key issues addressed & Terms**

For the purpose of clarity and understanding some generic terms are used to describe different categories of firearms. These are as follows:

*'restricted firearm'* means a firearm which is declared under section 2B(b) of the Firearms Act 1925, as amended, to be a restricted firearm - see S.I. No. 21 of 2008 Firearms (Restricted Firearms and Ammunition) Order 2008, as amended by S.I. 337 of 2009, made under this section.

*'short firearm'* means a firearm either with a barrel not longer than 30 centimetres or whose overall length (including the length of any detachable component) does not exceed 60 centimetres.

*'centre-fire handgun'* means high power pistols and revolvers which use a round which is greater than .22 inch calibre.

*'rim-fire handgun'* means lower powered pistols and revolvers which use a round of .22 inch calibre.

*'semi-automatic centre-fire rifle'* means rifled long firearms which use a round which is greater than .22 inch calibre, and can reload automatically from a magazine or cylinder each time a round is discharged but can fire not more than one round with a single pull on the trigger.

*'semi-automatic shotgun'* means shotguns which have a magazine capable of holding more than three cartridges, and can reload automatically from a magazine or cylinder each time a round is discharged but can fire not more than one round with a single pull on the trigger.

A summary of key matters considered by the Working Group were as follows:

1. Concerns of An Garda Síochána regarding public safety, and the following firearms:

- A- centre-fire handguns
- B- rim-fire handguns
- C- semi-automatic centre-fire rifles
- D- semi-automatic shotguns

2. Current legislative provisions of concern with particular reference to:

- A- Restricted Firearms Statutory Instruments (SI's)  
SI 21 of 2008 and SI 337 of 2009
- B- District Court appeals of refused licence applications
- C- Restrictions on handguns announced in 2008 and partial ban on handguns implemented in 2009
- D- Grounds to grant/refuse an application for a firearms certificate, and the appeal mechanism
- E. Provisions governing persons disentitled to hold a firearms certificate

A provision in relation to the reloading of ammunition was also examined. Proposals to enable Ireland to give effect to the UN Firearms Protocol are also recommended (UN Protocol Against the Illicit Manufacturing of and Trafficking In Firearms, Their Parts and Components and Ammunition), as are the repeal of certain provisions of the Criminal Justice (Miscellaneous Provisions) Act 2009.

3. A Communication of 21 October 2013 from the European Commission to the Council and the European Parliament, entitled; *Firearms and the internal security of the EU: protecting citizens and disrupting illegal trafficking*.

4. Legislative provisions in other jurisdictions including the UK.

5. Legal advices from 2009 to 2014.

6. Discussions with the National Association of Sporting Rifle and Pistol Clubs (NASRPC) the National Association of Regional Game Councils (NARGC) and the National Target Shooting Association (NTSA). Key issues raised in written communications from interest groups, including submissions issued jointly by the NARGC, NASRPC, the Irish Firearms Dealers Association, the Range Operators Association of Ireland and other groups.

Correspondence received from the Long Range Rifle Association, Countryside Alliance Ireland and the Wild Deer Association of Ireland.

7. Garda system of delegated authority, advisory roles and the Garda Commissioner's Guidelines as to the Practical Application and Operation of the Firearms Acts, 1925-2009.

#### **4. Oireachtas Debates 2009**

To provide context to this current review, it is useful to look back at what was said in 2009 when the licensing system was last amended.

The then Minister for Justice, Dermot Ahern, T.D. spoke in the Dáil in May 2009 during the second stage of the Criminal Justice (Miscellaneous Provisions) Bill.

Many of the then Minister's comments from this Debate are informative for the current deliberations such as;

*"I am determined to ensure that a gun culture is not allowed to form in this State".*

The Minister wished to *"dispel any notions that are any inherent rights to be considered here" (the right to possess a firearm).*

The Minister also said *"In this Bill, the concept of a prohibited firearm is introduced and Section 25 of the Bill (.....) proposes that the Minister.. should have the residual powers to be able to declare certain firearms and ammunition to be prohibited".*  
(Section 27 of 2009 Act inserted a new Section 2C in the 1925 Firearms Act).

*Minister Ahern said "I will, in consultation with the Garda Commissioner, keep the situation on firearms licensing under review in the interests of public safety".*

*Minister Ahern also said "My proposals for reform in this area include a ban on issuing new licences for handguns, although there will be exceptions for handguns designed for use in connection with competitions governed by International Olympic Committee regulations".*

#### **5. Background / Existing Legislative provisions / Nature of the problem**

The Firearms Act 1925, as amended, is the Principal Act in this area. Key sections from the 1925 Act as amended considered in the context of this Review were as follows;

Section 2- restrictions on possession, use and carriage of firearms, and exceptions to these restrictions

Section 3 - restriction on the licensing of short firearms (Section 3D)

Section 4 - conditions of granting of a firearms certificate

Section 5 - revocation of a firearms certificate

Section 8 - persons disentitled to hold a firearms certificate or a permit

Section 15 - Appeal to the District Court.

In relation to short firearms it is important to note that handguns were effectively banned in this jurisdiction for more than 30 years prior to 2004.



Under the Temporary Custody Order of 1972, holders of specified firearms (pistols, revolvers, and rifles exceeding .22 inches) were directed to surrender their firearms to the Gardai. Following a series of judicial decisions, firstly the Judicial Review case of Frank Brophy V Kehoe in 2004, approximately 1,800 handguns were licensed between 2004 and 2008. This situation did not come to pass as a result of a decision of the Oireachtas and therefore in 2008 the then Minister for Justice announced his plans regarding the licensing of handguns.

The main amendments to the Firearms Acts, 1925 to 2009, of relevance in the context of the issues encompassed by this Review were as are set out below.

The Criminal Justice Act 2006 amended the 1925 Act in numerous ways including providing for a new category of restricted firearm, and for a District Court appeal mechanism for a person aggrieved by a firearms licensing decision, and related decisions.

In 2008 the then Minister for Justice, Dermot Ahern T.D. announced his intention to introduce restrictions on the licensing of handguns. The Minister said that no new licences would be issued for centre-fire handguns and that existing licences would not be renewed unless the re-applications fully met the requirements of a tightened licensing procedure. These arrangements took effect from the time of announcement.

At the time the Minister indicated that if the outcome of such a review into firearms licensing leaves a situation which still poses an unacceptable risk to the community then new powers could be used to ban outright any type of firearm.

Section 30 of the Criminal Justice (Miscellaneous Provisions) Act of 2009 inserted a new Section 3D into the Firearms Act 1925 and provided that no application for a firearm certificate in respect of a restricted, short firearm would be considered by an issuing person. Only the re-application for existing licences for such restricted firearms were permissible. This came into effect in August 2009 and since then no restricted firearm certificates have been granted for new restricted handguns.

Section 29 of the Criminal Justice (Miscellaneous Provisions) Act of 2009 inserted a new Section 3A into the Firearms Act 1925. This Section provided that the Minister, or the Commissioner with the consent of the Minister, may issue guidelines in relation to the practical application and operation of the Firearms Acts, or relating to any regulation made under the Firearms Acts.

In addition to these changes, a Restricted Firearms Order was introduced, S.I. 21 of 2008, as amended by S.I. 337 of 2009. This Order, as amended, provides a definition of non restricted, short firearms, which allowed for certain rim-fire handguns to be licensed as non restricted firearms.

During 2010, as the new licensing regime became operational, the holders of existing licences for restricted handguns could re-apply for those licences.

Chief Superintendents, in some cases, refused these applications primarily on public safety grounds. A number of Judicial Review (JR) cases were then taken on these decisions, citing a “fixed policy” from the Garda decision makers. The applicants for licences in these cases were of the view that in certain areas many or all applications for such handguns were being refused without consideration being given to the merits of individual applications.

In 2012 these particular JR cases were settled after initial hearings in the High Court. The terms of the settlement provided for a fresh consideration of the re-applications for restricted firearm certificates previously refused by Chief Superintendents, where such refusals had not been the subject of an appeal to the District Court. The number of licence applications involved in these JR cases came to 168. As at end May 2014, the number of firearms certificates in the State (for all types of firearms) was 179,833.

The Garda Commissioner initially wrote to the Secretary General of DOJE citing concerns over continued licensing of certain firearms, including handguns. His considered view was that centre-fire handguns represent an unacceptable risk to society and should no longer be licensed in Ireland.

In August 2013, the Secretary General of DOJE wrote to the Commissioner, seeking to establish a joint Working Group.

During 2012 and 2013, the Gardaí have reported to DOJE on public safety concerns connected to certain firearms. In the initial report of the Garda Commissioner, recommendations were put forward in relation to short firearms. In this report, reference is made to the then Minister for Justice in November 2008 proposing that he will “keep under review...the outcome of the licensing procedure and, if the outcome of that procedure leaves a situation which still poses an unacceptable risk to the community, will use new powers which the Bill will contain to ban outright any type of firearm”.

Following on from the commitment made in 2008, the Criminal Justice (Miscellaneous Provisions) Act 2009 Act included Section 27, inserting a new Section 2C into the 1925 Act. This provided that the Minister may, in the interests of public safety and security, by order declare specified firearms to be prohibited.

The Garda Commissioner has recommended to the Secretary General of the Department a prohibition on the licensing of certain handguns. An Garda Síochána have also recommended in the interests of public safety that semi-automatic centre-fire rifles and semi-automatic shotguns (capable of holding more than 3 rounds) are firearms that should no longer be licensable in the State.

Statistical information from An Garda Síochána states that as of the 28<sup>th</sup> of March 2014 the total number of non restricted handguns licensed was 1,076 and the total number of restricted handguns licensed was 590.

An Garda Síochána also advise that as of the 17<sup>th</sup> of January 2014 there were 184 licences for semi-automatic centre- fire rifles and 8,763 licences for semi automatic and pump action shotguns, of which 45 semi-automatic shotguns (capable of holding more than 3 rounds) are licensed as restricted firearms. As of the 10<sup>th</sup> of February 2014 the number of firearms certificates in the State (for all types of firearms) was 178,191.

The Garda authorities can see no good reason for the continued licensing of centre-fire handguns. The Commissioner stated that:

“these handguns are primarily designed to kill human beings and having carefully considered all of the information available to me, it is my opinion they pose an unacceptable risk to society and should no longer be licensed in this jurisdiction”.

An Garda Síochána have advised that handguns with a calibre above that of .22 have a proven combat calibre of sufficient power so that the bullet will have sufficient penetration power against a human adversary and cause significant damage to incapacitate that person. These handguns are considered by An Garda Síochána to be designed for Military and Police use.

One Garda Chief Superintendent, a deciding officer on centre fire handguns since 2009, has provided information on crime in his Dublin Division. The information relates to crimes carried out in this area between November 2008 and September 2013. Of 42 murders in the area over this period, 24 were carried out with a handgun of 9mm calibre or greater, i.e. a centre fire handgun. There were 14 attempted murders in the same period, 10 of these carried out with a centre fire handgun. This is one example of the reason that the Garda authorities consider centre fire, short firearms to be the preferred weapon of criminals due to their calibre, magazine capacity, firing speed, lethality, concealability, and portability. A further example is the 2010 double murder of the Corbally brothers in Clondalkin, where two centre-fire handguns were used in the murders. One of these handguns was stolen from a licensed owner in Dublin, which is further evidence of the potential dangers associated with these types of handguns.

Lower calibre handguns are mainly identified as rim-fire (.22) handguns. The Gardai also have concerns with certain models of these handguns given the crime context outlined below.

Rim-fire handguns have also featured in serious crime. In 2011, rim-fire calibre handguns were used in 5 gangland shooting incidents. In 2010, three rim-fire handguns were used in gangland shootings.

In 2011 three rim-fire handguns were also recovered by An Garda Síochána. The serial numbers were erased from the three handguns concerned, preventing their identification.

An Garda Síochána recorded 2,198 incidents involving a firearm between 2009 and February 2014. An Garda Síochána have also advised that between 2009 and 2013 there were 96 murders and one case of manslaughter recorded in which firearms were used.

In many such cases it is impossible to say (due to the fact that the firearm is often not recovered) whether the firearms used were firearms that had been licensed and subsequently stolen from their owners or whether the firearms were never in fact licensed. A total of 1,134 firearms have been reported stolen from their owners in the period 2010 to 2013 inclusive, of which 355 were stolen in 2013. A further 159 firearms have been reported lost in the same four year period, 53 of which were reported lost in 2013. The concerns of An Garda Síochána are also based in part on a forward looking assessment of the dangers of an atrocity being carried out with weapons primarily designed to kill human beings, as has unfortunately happened in other jurisdictions.

An Garda Síochána has advised of the success in police operations in Ireland and internationally in thwarting specific trafficking routes for firearms. An Garda Síochána report that this can be seen on the ground where handguns are not being disposed of after each shooting as seen previously, but re-used again and again. This dearth of handguns could result in criminals focusing more on legally held handguns as a source.

In relation to semi-automatic centre-fire rifles, this type of rifle was used both in the shooting in Oslo, Norway in 2011 (where 77 people were killed) and also in Newtown, Connecticut in December 2012 (where 27 people were killed). An Garda Síochána do not see good reason for the continued licensing of semi-automatic centre-fire rifles, given that other types of rifle could be licensed for the same purpose.

An Garda Síochána also have concerns regarding shotguns which have a capacity to hold more than three cartridges. They consider there is no good and sufficient reason for a person to possess a shotgun with a large capacity magazine or a shotgun that is designed for use by military and police forces and that therefore such firearms should not be licensable as they pose an unacceptable danger to society.

There is also a number of licence applications which are now before the courts or have been determined recently. These applications relate to both District Court appeals and/or Judicial Review cases. Representatives of shooting interest groups have made the point that the licensing system is now over reliant on the courts whereas An Garda Síochána are of the view that both Superintendents and Chief Superintendents have refused licences for certain firearms on what those deciding officers consider to be legitimate public safety grounds. These refusals then become the subject of court proceedings. Members of the Judiciary have stated during appeal hearings that whether certain firearms are licensable or not is a matter for the legislature.

The problem of gun injuries and gun deaths was highlighted in a recent study, a summary of which was published in the Irish Medical Journal's September 2014 edition.

This study looked at gun shot wounds for all patients brought to Connolly Hospital Emergency Department, Blanchardstown, between 2001 and 2010. A total of 65 patients with gun shot injuries (with medical charts available in 59 cases) were seen during that time. Mortality for high velocity wounds (from handguns, rifles and semi automatic firearms) was much higher (43% of 23 cases) than for low velocity shotgun injuries (6% mortality rate in 34 cases). This high mortality rate with the use of lethal weapons was linked in the study to gang related crime and the study stated that the availability of such firearms to criminals is clearly a serious problem.

## **6. Legal Advices**

Advices from the Attorney General's Office (AG's) and Counsel have been requested at various stages between 2009 and 2014 by both An Garda Síochána and DOJE in relation to a range of firearms licensing issues.

These advices have been taken into account in preparing the draft legislation and in addressing other key issues identified by the Group.

## **7. Meetings with & Communications by interest groups**

DOJE met the National Association of Sporting Rifle and Pistol Clubs (NASRPC), the National Association of Regional Game Councils (NARGC) and the National Target Shooting Association (NTSA) in late 2013/early 2014 for the purpose of ascertaining their views regarding firearms licensing. An Garda Síochána also met with the NASRPC in December 2013 and with the National Target Shooting Association (NTSA) in January 2014. The particular issues pertinent to this Review were not raised by DOJE or An Garda Síochána at these meetings; neither have the recommendations of this draft Report been the subject of consultation with these groups, pending their consideration by both the Garda Commissioner and DOJE.

The National Associations in general cited difficulties in the interpretation of the legislation. In particular, they cited difficulties in the interpretation of what constitutes "short firearms designed for use in connection with competitions governed by International Olympic Committee regulations", as set out in the Statutory Instrument which provides for non restricted firearms (S.I. 337 of 2009). Written communications were also received from other groups including the Long Range Rifle Association, Countryside Alliance Ireland and the Wild Deer Association of Ireland. These communications, for the most part, sought clarifications on the nature and scope of the Review.

The NARGC referred to a possible prohibition of handguns in a document supplied to DOJE. The NARGC document states that "there is no objective basis for such an action and no risk assessment properly conducted will conclude that handguns, under the current licensing regime, constitute any greater risk to public safety, security and the peace than rifles or shotguns. Licensed handguns are not used in crime....are not being stolen.....have the most rigorous home storage requirements of all firearms and are discharged in a wholly regulated safe environment.....".

The NASRPC consider that the conditions imposed by deciding officers on firearms certificates and on range authorisations are, in some instances, both impractical and inconsistent.

A statement was issued in February 2014 on behalf of NARGC, NASRPC and other groups. The statement was entitled "Moves to Ban Firearms" and referred to proposals from An Garda Síochána to DOJE.

It also referred to the written judgment of a District Court Judge, which is elaborated on in Section 8 of this Report. The statement explains that the effect of a proposal to ban most handguns and certain other firearms would have consequences such as:

The complete devaluation of most stock of all firearms dealers  
The closure of a number of ranges and loss of investment  
Job losses for many employees in the gun trade and ranges.

A further document of 24 March 2014 was sent to the Minister and all Members of the Oireachtas, which was entitled "A critique of the administration of the firearms licensing system in the Republic of Ireland". The critique was prepared by a coalition of shooting associations. Groups which contributed to the critique are as follows; NARGC, NASRPC, the Irish Firearms Dealers Association, the Range Operators Association of Ireland, WA1500 Association of Ireland, Irish Bullseye Sports, and the Federation of Irish Salmon and Sea Trout Anglers.

The coalition of shooting groups raised the following as key issues in their critique of the firearms licensing system:

- Failure to acknowledge receipt of applications
- Delays in processing applications
- Need for an independent licensing system
- Issue of blanket / fixed policies from decision makers
- Lack of a reasoned decision in refusal letters
- Contradictory decision making between deciding officers
- Refusal to consider applications for certain handguns
- Lack of a risk assessment in proposing legislative changes
- Disrespectful behaviour from Garda members towards potential licence applicants
- Loss of applications
- Failure of District Officers to meet gun clubs
- Refusal to make data disclosure

- The Commissioner's delegation and responsibility to manage the system
- Training of deciding officers, and up to date Guidelines for same
- Need for a redress procedure or internal review of cases
- Clarity on magazine capacity for handguns
- Non availability of costs in the District Court
- Import licence procedures for handguns when applying to DOJE

This shooting coalition group also sent a letter and leaflet to all Oireachtas members in April 2014 in the context of the local and European elections in May. The shooting groups sought agreement from Oireachtas members and election candidates on the following matters:

- An independent licensing system
- A non-judicial appeals system against refusals of licenses by An Garda Síochána
- Confirmation of Annex F to the Garda Commissioners Guidelines of non-restricted firearms as previously agreed and a review of the Guidelines having regard to current jurisprudence and other developments. The Guidelines following review, to be mandatory
- Cessation of opposition to licensing Annex F firearms, allow substitutions (within calibre) of restricted firearms
- Review of definitions generally
- An Inquiry by the Garda Inspectorate into the administration of the firearms licensing system since 1 August 2009
- Address the refusal of costs in successful firearms appeals in the District Court
- Adherence to the legislative provisions and non-judicial redress where this does not occur
- Amendments to legislation as required to give effect to correct intent of legislation and to achieve the points listed above.

The shooting groups stated in the leaflet that there have been approximately 600 court challenges in the space of three and half years, almost all of which have been successful. (In subsequent correspondence with the Department, the groups' spokesperson stated that they now, on the basis of information from a solicitor involved in these proceedings, believe the figure to be in the region of 650 cases.)

Issues raised by the shooting groups were considered as part of this review of firearms licensing. These issues are referred to in Section 15 and various other sections of this Report. In the context of their offer to provide clarification on any of the issues which the shooting groups have raised, the Department of Justice and Equality sought further information on several issues including; failure to acknowledge receipt of applications, delays in processing, fixed policies from decision makers, lack of a reasoned decision in refusal letters, refusal to consider applications for certain handguns, loss of applications, and refusal to make data disclosure.

Further information was received from the shooting groups on these issues. Some of the documentation received is linked or relevant to Judicial Review applications currently before the Courts and therefore further comment cannot be made at this stage. Section 15 of the report addresses issues raised which are not before the courts.

The Minister agreed that further consultation will take place with interest groups when this Report has been considered by her and before decisions are finalised in relation to proposals for change to the firearms licensing system.

## **8. Appeals, Judicial Reviews, Legal Actions**

Since the partial ban on centre-fire handguns in November 2008 (no new licences can be applied for), a number of Chief Superintendents refused the re-applications for existing licences for such handguns. As indicated previously, a number of these refusal cases (168 cases listed in proceedings) went through a Judicial Review process which was settled in early 2012, with these cases being submitted back to the relevant Chief Superintendents for re-consideration. During 2013, some Chief Superintendents refused the renewal of licences for centre-fire handguns on re-consideration. These refusals could then be appealed to the District Court under Section 15A of the Firearms Act, 1925, as amended.

Many District Court Judges who have overturned the decisions of Chief Superintendents have consistently stated the current legislative provisions need to be addressed.

In Limerick District Court, an appeal hearing was heard in August 2013 with regard to two semi automatic, restricted rifles (rifles resembling assault rifles) and two centre fire handguns. This was an appeal against the decision of the Chief Superintendent not to grant licences for these firearms. It is reported that the Judge stated that the Chief Superintendent is being placed in an invidious position, with his concern being the public who he must protect and the possibility that the firearms may fall into the wrong hands. The Judge commented that the legislation has not grappled with the kernel of the issue; are these firearms lawful or not. The decision in this case was that the licences should be granted.

An appeal was heard in the Dublin District Court in October 2013 against the refusal to grant restricted licences for two centre-fire handguns (Thomas Mansfield V Chief Superintendent Coburn & the Commissioner of An Garda Síochána).

The Judge issued a ten page written judgement in December 2013, allowing the appeal, stating the following:

“The Court is satisfied that he has a good and sufficient reason and that the guns are appropriate for the purpose for which they are required.



The Court is satisfied that he doesn't take part in practical or dynamic shooting. I am further satisfied that the concerns expressed by the Chief Superintendent on public safety are not enough to deprive the Appellant of his licence, particularly in view of the unexplained 90% who subsequently got their licences on reconsideration".

The Judge also states:

"Arguments about the availability of guns to civilians is a wider political question for the Legislature to address. This is not a question for the Courts; we can only deal with the law as it is".

The case of McCarron v Superintendent Kearney (2008) is relevant to issues around public safety which can be considered in the area of licensing for centre fire, short firearms. In that case, Judge Charleton in the High Court stated:

"the Act makes it clear that considerations of public safety, the good order of the community and the proliferation of weapons within a particular district, and within the community generally, are all matters....which can and should be taken into account".

In February 2014, in Bray District Court, the District Justice granted firearms licensing appeals and directed the relevant Chief Superintendent to issue nine restricted firearm certificates for centre fire handguns. The Judge commented that it was open to the legislature to ban these weapons but in the absence of that, he was allowing all of the appeals.

Furthermore, solicitors representing the applicant / firearms owner in appeals against refusals to grant firearm certificates by An Garda Síochána are regularly citing Section 2C of the Firearms Act, 1925, as amended. This Section gives the Minister the power to prohibit specified firearms by Order, in the interests of public safety and security.

It has been argued by solicitors that as the Minister has not prohibited this category of handgun, this is therefore indicative that these firearms can and should be licensed and that the Minister has no express concerns with the licensing of centre fire handguns from the point of view of public safety and security.

It is in order to address this situation, as well as to address the concerns in relation to public safety and security, that the current proposals are being brought forward.

It is against the background in relation to crime, public safety, as well as the points raised by the Judiciary and members of the legal profession, that the Garda Commissioner has recommended a prohibition on centre fire, short firearms.

A number of Judicial Review (JR) cases have also been lodged since March 2014. These cases are currently before the courts. In many of these cases the individual concerned applied for a non restricted licence for a rim-fire (.22 calibre) handgun. The applicant was then informed by the Garda deciding officer that the application could not be considered as the firearm concerned is in fact a restricted handgun. In accordance with Section 3D(1) of the Firearms Act 1925, as amended, no new licences for restricted handguns can be considered after November 2008 and only existing licences may be renewed.

There are a number of cases in relation to firearms licensing before the District Court which have yet to be decided.

## **9. Options / Issues addressed**

The initial options in relation to the continued licensing of firearms can be summarised here as below.

### Handguns

Insofar as the prohibition of short firearms / handguns are concerned, the options are:

#### **A. Maintain the current position / Do nothing regarding a ban**

Given the concerns of the Commissioner regarding the threat to public safety posed by the continued licensing of certain categories of firearms the option of maintaining the status quo was not considered justifiable. The views of the Judiciary that the current legislative provisions need to be addressed are also a key consideration in relation to taking action.

#### **B. Impose a partial Ban on handguns**

This involves banning centre-fire handguns by means of primary legislation, and allowing certain rim-fire handguns, for Olympic competitions, to be licensable as non restricted firearms.

In debating the previous legislative changes in 2009, the then Minister for Justice, Dermot Ahern, T.D. stated in the Dáil that he was proposing a ban on issuing new licences for handguns, although there would be exceptions for handguns designed for use in connection with competitions governed by International Olympic Committee (IOC) regulations.

It is intended to continue to allow for the licensing of handguns, for use in connection with competitions governed by IOC regulations, and those authorised for professional uses, by vets and those involved in animal slaughter for example.

For firearms affected by a prohibition, the current proposals will ban the renewal of any existing licences, and no new applications for licences can be made for these firearms after the date of the Minister's announcement of these plans.

### C. Impose a complete Ban

This involves the banning of all handguns, with the exceptions of pistols authorised for professional uses, by vets and those involved in animal slaughter for example.

To adopt this option would go beyond what was envisaged in 2009 and runs contrary to the continued policy of facilitating Olympic shooting competitions.

#### Assault Rifles & shotguns

A prohibition is recommended of semi-automatic centre-fire rifles, and shotguns capable of holding more than three rounds.

In accordance with the Terms of Reference of the Working Group the matter of the licensing of assault rifles was examined. These assault rifles are a sub-group of a broader type of rifle known as semi-automatic centre-fire rifles, both of which are deemed to be restricted firearms under current legislation. An Garda Síochána were of the view that there is no justification for applying to licence either an assault rifle or a semi-automatic centre-fire rifle, given that other non-restricted rifles could be licensed for the same purpose. Hence, the Working Group are recommending the prohibition of the category of firearm known as semi-automatic centre-fire rifles.

In relation to shotguns capable of holding more than three rounds, An Garda Síochána recommended that this type of firearm be prohibited. An Garda Síochána consider there is no good and sufficient reason for a person to possess a shotgun with a large capacity magazine or a shotgun that is designed for use by military and police forces and that therefore such firearms should not be licensable as they pose an unacceptable danger to society.

The other Draft Heads address the following issues;

- Expanding the decisions which are appealable to the District Court
- Amending the grounds for not granting a firearms certificate.
- Amending the grounds for a person to be disentitled to hold a firearms certificate
- Amending the provisions regarding exemptions from the requirement to hold a firearms certificate
- Providing for the circumstances under which the reloading of ammunition will be acceptable
- Establishing criminal offences for intentionally altering the markings on firearms, and providing that the Minister may make regulations to specify the

marking required for firearms imported from outside the EU, and also to specify conditions for the destruction of confiscated firearms

- Repealing certain sections of the Criminal Justice (Miscellaneous Provisions) Act 2009 which were not commenced
- Expanding the grounds under which a firearms certificate can be revoked.

## 10. Draft Heads

Draft Heads of legislation to address the key issues identified by the Working Group are at Appendix A.

A summary of the main provisions covered by the draft Heads is beneath;

Head 1            This Head provides that firearms issued with a Garda authorisation for target shooting shall not include handguns other than air pistols and suitable .22 handguns for Olympic use

Section 2(4)d of the Firearms Act, 1925 allows for a Garda Superintendent to authorise the possession, use and carriage of a firearm for specific purposes. This proposed Head is outlining that only licensable types of handguns can be the subject of such a Garda authorisation under Section 2(4)d.

A technical amendment is also included to ensure that a Superintendent can authorise the possession, carriage or use of a humane killer by a butcher or other person engaged in the business of the humane slaughter of animals as per Section 2(3)g of the Firearms Act, 1925. Section 2(6) of the Act is also amended to provide for the use of restricted firearms in theatrical or cinematic events where the use is authorised by the local Superintendent. The Commissioner's Guidelines will provide guidance on the criteria for authorisation.

Head 2            This Head inserts a public safety provision as an additional ground to be considered by An Garda Síochána in deciding whether or not to grant or renew a firearms certificate

An Garda Síochána expressed concerns that solicitors representing applicants at appeal stage are often able to assure a Judge that there is no public safety concerns regarding the application, mainly by referring to Section 4(2)b of the Firearms Act, 1925, as amended, and stating that the applicant does not pose any threat to public safety.

An addition to Section 4 is being proposed to reflect that deciding officers need to take account of general public safety concerns in relation to a firearm and a particular type of firearm, and not just concerns specific to the particular applicant concerned.

Head 3            This Head amends the provisions for persons disqualified to hold a firearm certificate

This provision expands the grounds for persons disentitled to hold a firearms certificate or a permit to include those persons convicted of an offence punishable by a penalty of at least 5 years. Disentitlement will apply for a period of 10 years after the conviction was imposed.

A person who is bound by a recognisance to keep the peace or be of good behaviour is also disentitled for the period of the bond regardless of any conditions of the recognisance.

Head 4-5 Provides for the non renewal of licences and no new licences for certain categories of firearms

This provides for a prohibition of specified firearms, which are:

- A centre-fire short firearm

- A rim-fire short firearm not listed in a new white list of licensable handguns

- A semi-automatic centre fire rifle

- A semi-automatic shotgun manufactured to hold more than three cartridges

(See definitions at Section 3).

Head 6 Amendment to Appeal provisions to the District Court for the refusal to grant a firearms certificate

This expands on the decisions which can be appealed to the District Court, to include for example an appeal of the conditions attached to a firearms certificate and a firearms training certificate and on conditions on the granting of an authorisation for a rifle or pistol club or shooting range.

Head 7 Reloading

This a proposed amendment to the Explosives Act 1875 to allow for the reloading of ammunition in specific circumstances. Reloading of ammunition essentially involves the making of new ammunition from used or new components. Fired cartridges can be reused by fitting them with primers, filling the case with powder and fitting new bullets to the case. The proposed amendment would address the current lacuna in legislation following the repeal of the reloading provision in the Criminal Justice Act 2006 without simultaneous clarification of the existing provisions in the Explosives Act 1875 which permit individuals to legally keep or store a large quantity of gunpowder (30 lbs) for private use without application for a licence for registration from the local authority.

The proposed amendment clarifies the provision in the 1875 Act in relation to the filling and keeping of explosives for private use, which allows filling under very limited circumstances imposed by a Government Inspector of Explosives at a designated filling room and takes into account safety and security concerns as well as removing current inconsistencies and anomalies. The original intention was to introduce the amendment in the Explosives Bill. However, the publication and enactment of this Bill will not happen in the near future due to other legislative priorities.

## Head 8            Altering the marking of a firearm

Article 5(1)(c) of the UN Firearms Protocol requires State Parties to establish criminal offences for persons who, in summary, intentionally falsify, obliterate, remove or alter the marking on firearms. Accordingly, this Head seeks to introduce anew offence which complies with this Article of the Protocol.

## Heads 9 and 10        Marking of firearm and Destruction of firearm

Two further amendments are proposed in order to comply with the UN Firearms Protocol. It is proposed that the Minister may make regulations which shall specify that a firearm will be marked with the country and year of import, when a firearm is imported into the EU (in this case Ireland) for the first time. It is also proposed that the Minister may make regulations that shall specify the conditions for the destruction of firearms which have been illicitly manufactured or trafficked.

## Heads 11 and 12    Repealing of certain Sections not commenced

Sections 36 and 38 of the Criminal Justice Act (Miscellaneous Provisions) Act 2009 were intended to address certain issues (distance selling) referred to in the EU Firearms Directive 2008/51/EC. The Directive has since been transposed into Irish law (in S.I. 493 of 2010) without the need to commence Sections 36 and Section 38 and they can therefore be repealed.

## Head 13                Extra ground to revoke

Section 5 of the Firearms Acts 1925, as amended, provides the grounds for the revocation of a firearms certificate. It is proposed to provide a new ground to revoke a firearms certificate if issued in error. In such instances, the licence holder can appeal a revocation to the District Court, rather than seek a Judicial Review as happens at present.

## 11. International Comparison

The Working Group had regard to relevant provisions from firearms legislation from several jurisdictions including Canada, Germany, Finland, Australia, Norway and the United Kingdom (UK). Information in this regard is at Appendix B.

The Working Group carried out a comparative study of the firearms licensing systems operated in some other countries. All of those studied invested the authority to grant a firearms certificate in the chief of the police force, albeit that Canada and the UK operated the system at arms length by employing civilian staff to administer and make a recommendation on the chief's behalf.

A decision to refuse to grant a firearms certificate may be appealed to the Secretary of State in Northern Ireland, whilst most other countries permit an appeal to the District Court or equivalent court. Appeals in Australia are adjudicated on by a three person Firearms Appeal Committee with a 13 person panel consisting of 3 legal practitioners, 5 firearms owners and 5 community representatives. In UK, prior to arguing a refusal decision in Crown Court, the Firearms Licensing Unit of the Local Police Force will submit the decision to internal review by the legal section once the applicant indicates an intention to appeal the refusal. This review is carried out without the participation of the applicant.

One area which the Working Group was tasked to address was any possible changes to the Garda Commissioner's Guidelines as to the Practical Application and Operation of the Firearms Acts, 1925-2009. These Guidelines were drafted and published in 2009 and are now due for amendment, both in light of developments since then, and to take account of the outcome of the recommendations of the Working Group. In this context, the UK licensing system is of interest, and in particular the public document entitled "*Guide on Firearms Licensing Law*", from the Home Office dated October 2013. Information from this document is included beneath for comparison purposes and in the context of the issues considered by the Working Group. The Guide states;

*"UK firearm policy is based on the fact that firearms are dangerous weapons and that State has a duty to protect the public from their misuse. Firearms ownership is a privilege, not a right. Firearms control in the UK is among the toughest in the world, and as a result firearms offences continue to make up a small proportion (less than 0.2%) of recorded crime"*

*(Chapter 1, page 5, Guide on Firearms Licensing Law)*

In 1997, the Secretary of State prohibited any firearm which either has a barrel less than 30cm in length or is less than 60cm in length overall, other than an air weapon, a muzzle loading gun or a firearm designed as a signalling apparatus (see Chapter 2, page 14). The intention was to prohibit particularly dangerous firearms which were easy to conceal, and this has

meant the prohibition of handguns although the legislation does not refer explicitly to handguns.

In the UK, centre-fire semi-automatic rifles are banned and short-barrelled or short overall length (less than 40 inches) pump action and self-loading shotguns are also banned.

In the context of this Review, it is important to note that Northern Ireland has a separate firearms code, and handguns are not banned in the North.

This Guide on Firearms Licensing Law also sets out the range of issues which can be provided for in Guidelines, rather than in primary legislation. This includes the issue of “Assessing Suitability” (of applicants for firearms licences) at Chapter 12 of the UK document. For example, a firearms certificate can be revoked in the UK if the holder is of “intemperate habits or unsound mind”.

The meaning of these provisions are elaborated on as a guide to police decision making at paragraphs 12.20 to 12.26 (pages 96 to 97, weblink to the document is immediately below ).

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/262215/Guidance\\_on\\_Firearms\\_Licensing\\_Law\\_v6\\_Nov\\_2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/262215/Guidance_on_Firearms_Licensing_Law_v6_Nov_2013.pdf)

Following consideration of the Working Group Report by the Commissioner, the Secretary General and the Minister, An Garda Síochána will consider any necessary changes to the Garda Commissioner’s Guidelines on the Firearms Acts. These Guidelines are intended to set out in practical terms, for the benefit of both the Gardai and the public alike, how the complex area of firearms legislation may be applied.

A further document of particular relevance to the Review was a Communication issued in October 2013 from the European Commission to the Council and the European Parliament, entitled; *Firearms and the internal security of the EU: protecting citizens and disrupting illegal trafficking*.

The introduction to this Communication states;

*“There are still far too many victims of gun-related violence in the EU. In the first decade of the 21<sup>st</sup> century there were over 10,000 victims of murder or manslaughter, killed by firearms, in the 28 Member States of the EU, and every year there are over 4,000 suicides by firearm. On average, there are 0.24 homicides and 0.9 suicides by firearm per 100,000 population per year in the EU. The presence of powerful and often illegally-held firearms in particular in deprived urban areas can create a sense of insecurity among citizens.”*

This Communication also states that the misuse of firearms, be it legally owned civilian weapons or civilian or military weapons, which are illicitly manufactured or obtained illegally, is a serious threat to the EU’s security from both an internal and an external perspective.



The Commission report is not only mindful of the danger of firearms in relation to criminal gangs, but also of horrendous shootings in recent years carried out by individuals licensed to possess the firearms concerned, for example Cumbria 2010 and Liege in 2011. The prevention of future gun crimes, whether by criminal gangs or individuals licensed to own firearms, is a key concern of both the EU Commission, and indeed the Gardai and DOJE.

The Commission point out that the gunmen responsible for horrendous shootings in recent years, in the schools in Tuusula (2007) and Kauhajoki (2008), and in Cumbria (2010) and Alphen aan den Rijn (2011), were mentally unstable adults and yet were licensed to possess a firearm.

External to the EU, the Working Group was also mindful of the shootings in Oslo, Norway in July 2011, where 77 people were killed and more were seriously injured. Another shooting was the Sandy Hook school massacre, where 27 people were killed in Newtown, Connecticut in December 2012. These incidences highlight the dangers of civilian access to high calibre / centre fire pistols and semi automatic rifles.

An Garda Síochána also reported on the dangers of semi automatic versions of assault rifles, as used in previous massacres in Hungerford in the UK, where 16 people were killed in 1987, and Tasmania in Australia, where 35 people were killed in 1996. After Hungerford the UK authorities banned all semi-automatic centre-fire rifles in Britain and Northern Ireland.

The international comparison set out in preceding paragraphs highlights the potential dangers of an atrocity being carried out in this country with weapons designed to kill human beings.

New Zealand introduced a new Order in 2013 which means that certain semi-automatic firearms with a pistol grip are considered “military style semi automatic” firearms. Access to these types of firearms is restricted.

The EU Commission report, at page 5, cites French police who have reported a 40% increase in seizures of stolen civilian and military weapons between 2010 and 2011. This is the European context which Ireland must be mindful of in legislating for firearms licensing.

The EU Commission document includes statistics on homicides by firearms per 100,000 population. Bearing in mind the UK handgun ban since 1997, is it worthwhile to note that the UK has one of the lowest figures for homicides by firearms at 0.07 per 100,000 population. The figure for Ireland is 0.48 homicides by firearms per 100,000 population (see the Statistics of the Commission report at Appendix C).

A UK study (Peter Squires, University of Brighton, article in [theconversation.com](http://theconversation.com) dated 19/09/2013) looked at gun crime in England and Wales between 1996 to 2011, in light of the ban on handguns in England and Wales introduced with the Firearms (Amendment) Act 1997. Handgun crime in 2001- 2002 was recorded at an approximate level of 6,000 incidents, while

in 2010-2011 the same recording mechanism revealed 3,000 incidents for handgun crime. For four years after the handgun ban of 1997, other trends affecting crime rates caused an increase in handgun crime, but other legislative changes and a steep learning curve by the police in proactive firearms control led to significant reductions in gun crime. The UK handgun ban can therefore be seen as part of an overall policing approach which eventually led to significant reductions in handgun crime.

## **12. Commissioner's Guidelines as to the Practical Application and Operation of the Firearms Acts, and related issues**

The Working Group also considered various administrative and policy matters relating to firearms licensing and the systems and procedures which An Garda Síochána has in place to deal with this licensing regime.

The Garda Commissioner's Guidelines as to the Practical Application and Operation of the Firearms Acts were published in October 2009.

An Garda Síochána will also advise DOJE as to an appropriate system for future amendments and updates to the Guidelines in the light of the final decisions made regarding the recommendations of the Working Group and the enactment of any subsequent legislation.

Consideration will also be given to addressing the following issues when amending the Guidelines:

- "Intemperate habits", Section 8(1)b  
& "unsound mind", Section 8(1)c  
& guidelines on the meaning of these provisions

These particular provisions date from the Firearms Act 1925, and it is considered that an explanation for this subsection could be provided for in the Commissioner's Guidelines, as opposed to a legislative amendment.

- Dealers (RFD's) closing down

There are a number of Registered Firearms Dealers (RFD's) who are not continually trading and may consider closing down. Such a RFD will be primarily concerned with selling his remaining stock of firearms prior to ceasing to trade, and prior to being removed from the Register. Generally however, local Gardai do not become involved with such cases until the RFD is about to leave the Register of Firearms Dealers. Procedures will be considered to safeguard against any stock of firearms been misdirected to individuals not licensed to possess the firearms concerned.

- Antique firearms and guidance on what historic firearms may be exempt from the Firearms Acts if held as ornaments or curiosities.

- Possible Section 16 procedures regarding movement of firearms  
Section 16 of the Firearms Act, 1925 includes a general provision that the movement of firearms from District to District is to be authorised by the relevant Garda Superintendent. Section 16 has recently been invoked for

example when a Firearms Dealer wishes to bring firearms to a public, trade fair for display purposes. The circumstances when it is appropriate to enforce Section 16 will be considered when reviewing the Guidelines.

- Any issues regarding Dealers and handguns/firearms surrendered as a result of any ban.

The inclusion of procedures around firearm holders surrendering any firearms, which have become the subject of a prohibition, will also be considered.

- A revised system to ensure careful examination of each application for a firearms certificate and for the renewal of same.

In order to assist issuing officers, consideration is being given to requesting applicants for firearms certificates to supply a photograph of the firearm to supplement an application.

Pending the revision of the Commissioner's Guidelines, a Directive will issue from Garda Headquarters to relevant members which will address issues such as the following:

- The 12 week time frame provided for in legislation for deciding on applications
- Reminder to members of a previous Directive in 2011 in regard to the loss of applications
- Reminder to members of the Guidelines' recommendation that a Superintendent or representative should meet all gun clubs in his/her District not less than twice a year
- Reminder to members of the requirement for a reasoned refusal, when refusing an application for a firearms certificate.

#### Delegated authority

The Working Group addressed the issue of the Commissioner's delegated authority to Chief Superintendents. Currently an applicant for a non restricted firearms certificate needs to apply to the Superintendent of An Garda Síochána of the District in which the applicant resides (Section 3(1) of the Firearms Act, 1925, as amended). Section 3(2) of the Firearms Act provides that an application for a restricted certificate shall be made to the Garda Commissioner. This authority has been delegated to Divisional Chief Superintendents.

The issue was raised as to whether consistency in decision making would be aided by appointing one member of An Garda Síochána as the deciding officer for restricted firearms. An Garda Síochána are firmly of the view that the current system should remain. Any central deciding officer for all restricted firearms would still need to rely on the recommendation from the local Gardai from the area where the applicant resides.

The Working Group also had regard to relevant case law in the area of firearms licensing. One relevant case is McCarron V Kearney, High Court Judicial Review case, reference 2006 No. 626 JR. The Judgment of Charleton, J. was delivered on the 4<sup>th</sup> of July 2008.

Judge Charleton stated, inter alia:

*“6. Such factors as the general proliferation of guns, the kind of guns that are more especially dangerous, the murder and suicide rate may be important factors in any sensible view as to the licensing of firearms.....*

*A Superintendent of An Garda Síochána is in a good position to be aware of such trends, perhaps more so than a judge, particularly in the Superior Courts where there is less of a connection with local problems.”*

#### Internal review

A possible “internal review” mechanism was considered, also in light of proposals from shootings groups. While a deciding officer is able to seek advice from Firearms Policy (FPU) and/or Ballistics Section in An Garda Síochána as appropriate, the *persona designata* status means that his/her ultimate discretion in making a decision on firearms licensing cannot be fettered in any way. For this reason and having regard to the views of the Courts an internal review mechanism was not considered a viable option.

### **13. Possible Compensation**

In *Magee V Murray* (2008, Judge Birmingham) it is stated in summary; “The possession of every firearm is illegal unless authorised by law. The possession of a firearm is not a right, but it is a privilege...”.

A similar view was expressed in *McCarron V Kearney* by Charleton J. (High Court, 4 July 2008).

In other cases the Courts have taken the view that what is in the State’s gift cannot be required to be compensated if it is withdrawn. In relation to the UK provisions on handguns, a relevant article is “Compensation for Banned Handguns: Indemnifying ‘Old Property’ “ (Alan Story, 1998 *Modern Law Review*).

In this article Mr Story writes on whether the European Convention on Human Rights requires the payment of compensation subsequent to a prohibition:

*“The public interest hurdle is easily met and under international law, there is no requirement that compensation be provided if property is banned, especially for reasons of public safety”.*

### **14. Possible Surrender Scheme / Security**

The Working Group has addressed particular issues linked to safety and security, in relation to the relevant firearms. Given that the proposed prohibition imposes a ban on the renewal of certificates for affected firearms, this has particular implications for An Garda Síochána. For example, how will local Gardai handle cases where former or current owners of firearms surrender their firearm of their own volition, at any time prior to the expiry of the licence. DOJE and AGS will also be mindful of firearms owners exporting their firearms to Northern Ireland for example, where a handgun ban is not in place. Any possible security implications will need to be monitored closely.

The Working Group has also identified the need to avoid the build up of handguns on the premises of Firearms Dealers (RFDs). This is a key area for follow up by An Garda Síochána in the light of decisions taken in relation to amending legislation.

The most recent surrender of firearms scheme was in 2009, after the introduction of a new licensing regime. Individuals who failed to obtain new certificates were no longer the legal owners of their firearms. As they could no longer legally possess the firearm, in these cases, they were obliged to remove the firearm to a Firearms Dealer or to surrender the firearm to a local Garda station. After 2009 the Gardai oversaw the destruction of many such firearms.

Based on experience from 2009, An Garda Síochána will devise a surrender scheme, on foot of any amending legislation. It is envisaged by An Garda Síochána that many owners (and Firearms Dealers) will seek to export

affected firearms to other jurisdictions. A scheme will however be put in place to facilitate those who wish to surrender their firearms.

The “Handgun surrender and compensation” scheme adopted by the UK Home Office in 1998 is another prior scheme which the Working Group took into account, and which can inform planning for the surrender of firearms, following any prohibition. In the UK scheme, which dealt with the surrender of over 162,000 handguns, local police forces were responsible to ensure that prohibited handguns in their area had either been surrendered or otherwise disposed of lawfully.

The UK scheme also focused on the disposal of handgun ammunition, and this is an area which An Garda Síochána will address, following any prohibition. UK police had expected that most ammunition would be used up by individuals prior to surrender but this did not prove to be always the case. The UK surrender scheme had to take account of a variety of different, regional police forces. A surrender scheme through An Garda Síochána will need to ensure that a consistent procedure is adopted by each Garda District.

## **15. Other issues considered**

The Working Group also considered other issues of relevance to firearms licensing, including some issues raised by the coalition of shooting groups in their critique of the firearms licensing system.

### Receipt / time limit / appeal

A receipt system was proposed by shooting groups in the context of applications being processed within 3 months after the receipt of a completed application. Documentary information was provided by the shooting coalition group in July 2014 in relation to a small number of cases where applications were not processed within the statutory 3 month timeframe.

An Garda Síochána already issues an acknowledgement to each applicant immediately the details of the application are entered onto PULSE. An Garda Síochána are of the view that the proposal to introduce a receipt system is a disproportionate cost and administrative burden given the percentage of applications that are logged as going over the 3 month processing time. This is confirmed by the number of applications recorded on the Pulse system as of 1<sup>st</sup> May 2014 as not being fully processed within the 3 months timeframe totalled 9,974 from the overall total of 440,860 applications (initial applications and renewals) entered on the system since 1st August 2009. This demonstrates that only slightly more than 2% of the total number of applications was not fully processed within the 3 months timeframe.

The current system was also set up in part to facilitate rural applicants such as farmers (Irish Farmers Association were consulted at the time) who may need to drop an application into a Garda station which is only open for set periods each week. Such applications are collected, brought to a District station, and entered onto PULSE after which an acknowledgement issues.

As stated earlier a reminder in relation to the 12 week time frame for the processing of applications will be part of a Directive from Garda Headquarters to members.

Shooting groups have also cited the lack of ability to effectively appeal a refusal of an application, due to lack of a reasoned decision, in cases where the applications were not processed within the 12 week timeframe provided for under the Firearms Acts. However, an appeal in such cases is regarded as a *de novo* application to the District Court, meaning the appellant is essentially making a new application to the Judge where the full history of the application can be examined.

#### Issues before the courts

Several issues raised by the shooting groups are now the subject of applications to the courts. In certain licence applications for .22 handguns the applicant has been informed by An Garda Síochána that the application “cannot be considered” as the firearm is a restricted firearm.

The lack of an ability to appeal such a decision to the District Court is one of the issues cited by shooting groups and is now part of Judicial Review (JR) proceedings. On a related issue, the magazine capacity of non restricted handguns and lack of clarity regarding same has also been raised in a current court case.

There are a number of cases in relation to firearms licensing before the District Court which have yet to be decided.

#### Alleged disrespectful behaviour towards applicants

Shooting groups have raised the issue of possible disrespectful behaviour from members of An Garda Síochána towards licence applicants. An Garda Síochána takes very seriously any allegations of misconduct by its members including towards applicants or potential applicants for firearms licences. There are both internal and external means of review on foot of complaints in this regard. Each member of An Garda Síochána is subject to the Disciplinary Code and disciplinary measures can be taken when a member of the force is found to be in breach of the Code. It is also open to individuals to make a complaint to the Garda Síochána Ombudsman Commission regarding any possible misconduct by a member of the force.

#### Data protection

Shooting groups have reported that there have been numerous incidents where An Garda Síochána has failed to make a decision or has refused data disclosure requests from applicants for a firearms certificate. Requests for disclosure of documents under Data Protection legislation are now processed centrally within An Garda Síochána to ensure full compliance with the legislative requirements.

There is currently a Working Group chaired by an Assistant Commissioner which is addressing FOI and related matters in relation to An Garda Síochána. It is expected that that this will result in improved procedures in this area.

### Other issues

Shooting groups have also cited difficulties with both “fixed policies” and contradictory decision making from different deciding officers. An Garda Síochána are of the view that the *Persona Designata* status of each decision maker, coupled with the factors to be considered by an issuing person varying significantly from District to District, inevitably leads to different decisions being made in different areas. However, each application for a firearm certificate is considered on its own individual merits and the Superior Courts have ruled that the decision of the issuing person cannot be fettered. For this reason also the Garda Commissioner’s Guidelines can only be a guide for decision makers, and not mandatory as requested by shooting groups, as anything more binding from Garda Headquarters would be seen as a breach of the independent decision making within the firearms licensing system.

The shooting groups have also referred to the Garda Commissioner’s overall responsibility for the management of the firearms licensing system. The Review Group addressed the issue of delegated authority as outlined in Section 12 of this Report. The Commissioner’s Guidelines were also cited by shooting groups as a key tool in the training of, and guidance to, decision makers in firearms licensing.

On foot of this Review, and any possible amendments to the licensing system, the Garda Commissioner’s Guidelines will indeed be substantially amended and updated, both to reflect any changes and to provide the most up to date guidance to decision makers.

The shooting groups have also raised concerns in regard to a refused application for a firearms certificate which is granted on appeal. The groups state that in such cases the initial refusal is still recorded on PULSE and such a refusal can have negative consequences when a shooter applies to travel as a tourist within the EU with his firearm. An Garda Síochána have confirmed that applications which are granted after an appeal to the District Court are then updated on PULSE as granted applications. Other applications for licences which may remain refused on PULSE do not “criminalise” such applicants. Many such applicants are already licensed for other firearms for hunting or target shooting. An Garda Síochána have provided information on this issue, as it relates to the PULSE system, in the Frequently Asked Questions area of the Garda website.

## **16. Acknowledgements**

The Group wish to acknowledge the invaluable contribution provided by Alan King, Secretary to the Group in researching and coordinating many of the issues considered by the Group. The Group also wish to express their thanks to Sergeant Paul Greene for his role in addressing and coordinating the issues on behalf of An Garda Síochána.



## **Appendix A to the Working Group Report**

### **Head 1 - Amendment to section 2 of the Firearms Act 1925, as amended Restrictions on possession, use, and carriage of a firearm**

Section 2 of the Firearms Act 1925 is amended-

(a) by the insertion after subsection (7) of the following subsection:

2(8) In subsection 2(4)(d), references to a firearm do not include references to a handgun other than:

(a) an air pistol;

(b) a short firearm, using 0.22 inch long rifle rim fire ammunition, listed in a regulation to be made by the Minister, in consultation with the Commissioner

(b) by the substitution in subsection (6) of “In subsection (4) (other than paragraphs (f), (i) and (k))” for “In subsections (3)(g) and (4) (other than paragraphs (i) and (k)) ”

#### **Note**

Section 2(4)(d) of the Firearms Act 1925 provides an exemption from holding a firearm certificate for the possession, use or carriage of a firearm during a competition or target practice at a club, shooting range or any other place that stands authorised under section 2 or section 4A of the Firearms Act 1925. This Head specifies the types of handgun that qualify for this exemption – “0.22 rim fire handguns not listed in a new “white list” provision will no longer be covered by this exemption .

The Head also provides for a technical amendment to section 2(6) to allow for the use of a humane killer by veterinarians, as a humane killer is normally a centre fire handgun. Section 2(6) is also amended to provide for the use of restricted firearms in theatrical or cinematic events where the use is authorised by the local Superintendent. The Commissioner’s Guidelines will provide guidance on the criteria for authorisation.

## **Head 2 - Amendment to section 4 of the Firearms Act 1925**

### **Conditions of grant of firearm certificate**

Section 4 of the Firearms Act 1925 is amended:

by the insertion of the following subsection after subsection 4(1):

4(1A) An issuing person shall not grant a firearm certificate or the renewal of a firearm certificate for a firearm, if in the opinion of the issuing person, granting the certificate could prejudice public safety or the peace. In forming an opinion, an issuing person may have regard to any or all of the following :

- a) the proliferation of firearms and the nature and extent of crime resulting from firearms in the issuing person's division or district as the case may be;
- b) the calibre of the firearm;
- c) the velocity of the ammunition
- d) the size and shape (appearance) of the firearm
- e) the lethality of the firearm.

#### **Note**

The current conditions under section 4 mainly focus on the individual applying for the certificate. For example, subsection 4(2)(b) considers public safety and security in terms of the applicant's suitability to possess use and carry the firearm applied for. Other safety considerations such as the type of firearm or the proliferation of firearms appear to become lost in all the other criteria to be taken into account. The new provision is intended to prioritise public safety above other considerations.

### **Head 3 - Amendment to section 8 of the Firearms Act 1925**

#### **Persons disentitled to hold a firearm certificate or permit.**

Section 8(1) of the Firearms Act is amended –

(a) by the substitution of subsection (1)(d) with:

“(1)(d) any person who has been sentenced to a term of imprisonment for  
–

- (i) an offence under the Firearms Acts 1925 to [2014], the Offences against the State Acts 1939 to 1998 or the Criminal Justice (Terrorist Offences) Act 2005, or
- (ii) an offence under the law of another state involving the production or use of a firearm,”

and for a period of 10 years after the conviction was imposed.

(b) and by the deletion in subsection (1)(e) of “a condition of which is that the person shall not possess, use or carry any firearm or ammunition” and by the insertion after “behaviour” with “shall remain disentitled for the period of time s/he is bound by the recognisance”.

(c) by the insertion of the following subsection after subsection (1)(f):

“(1)(g) any person convicted of an offence punishable by a penalty of at least 5 years imprisonment for a period of 10 years after the conviction was imposed.”

#### **Note**

Section 8 of the Firearms Act 1925 provides for the disentitlement of specified categories of persons from holding a firearm certificate.

The grounds for disentitlement have been expanded to include those persons convicted of an offence punishable by a penalty of at least 5 years, and disentitlement shall apply for period 10 years after the conviction was imposed.

Finally the Head disentitles a person who is bound by a recognisance to keep the peace or be of good behaviour irrespective of any condition of the recognisance.

Section 9(13) of the Firearms Act 1925, as amended and section 9C (11) of the Firearms and Offensive Weapons Act 1990, as amended, provide similar grounds for disentitlement for those wishing to register as firearms dealers and dealers in realistic imitation firearms respectively.

It is proposed to amend these sections when the wording in this head has been finalised as similar wording is used in these sections.

Regarding the current section 8(1)(b) which disentitles persons of intemperate habits, it is considered that, as is the case in a number of countries legislation, such as the UK, the practical application of such a provision should be contained in the Guidelines, rather than in legislation. The Home Office "Guide on Firearms Licensing Law" published October 2013 contains extensive advice on the matter and expands on relevant issues such as evidence of alcohol or drug abuse; aggressive or antisocial behaviour, such as domestic disputes, or hostility towards a group of people.

**Head 4 - New section 9A of the Firearms Act 1964**  
**Banning renewal of centre fire handguns, and certain rifles, shotguns and 0.22 rim fire handguns**

9A(1) Notwithstanding the provisions of section 3D of the Firearms Act 1925, as amended, as and from the date of commencement of this section, an application for the renewal of a firearm certificate shall be refused by an issuing person for:

- a) a centre-fire short firearm;
- b) a short firearm, using 0.22 inch long rifle rim fire percussion ammunition, other than such a firearm listed in a regulation to be made by the Minister, in consultation with the Commissioner;
- c) a semi automatic centre-fire rifle;
- d) a shotgun manufactured to hold more than three cartridges, that has not,[at the time of renewal,] been adapted or modified so as to render it permanently incapable of holding more than three cartridges

(2) Any firearm certificate in respect of a firearm to which subsection (1) of this section relates, renewed between [x/xxx/ 2014- date of Minister's announcement] and the date of commencement of this section and in force shall stand revoked.

**Note**

Section 30 of the Criminal Justice (Miscellaneous Provisions) Act 2009 inserted a new Section 3D into the Firearms Act, 1925. This meant, in summary, that no new applications for centre fire short firearms could be made except for a handgun for which the applicant held a firearm certificate on or before 19 November 2008, the date of the then Minister's announcement that he intended to ban such firearms. This is in effect a partial ban on these centre fire short firearms in that no new applications can be accepted for these handguns, since November 2008.

It is proposed the Minister will make an announcement similar to the one in November 2008 regarding the ban provided for in Heads 4 and 5. This announcement will be in advance of the legislation and the date of the announcement will be inserted into subsection 2 of this Head. Any certificates issued between the date of announcement and the Head coming into force will stand revoked as provided for in subsection 2 of the Head.

Accordingly, this Head bans the renewal of certificates for large calibre handguns, effectively banning all large calibre handguns by the end of their current renewal cycle. The section also bans the renewal of short firearms using 0.22 inch long rifle rim fire percussion ammunition that are not listed in a new "white list" of licensable handguns. A procedure will be put in place to allow for additions to the list to be considered. Finally, the Head bans the renewal of certificates for semi automatic centre fire rifles and shotguns manufactured to hold more than three cartridges.

**Head 5 New section 3F of the Firearms Act 1925**  
**Banning of new applications for particular rifles, shotguns and 0.22 rim fire handguns**

3F(1) Notwithstanding the provisions of section 3D of the Firearms Act 1925, as amended, as and from the date of commencement of this section, an application for a firearm certificate shall be refused by an issuing person for:

- a) a short firearm, using 0.22 inch long rifle rim fire percussion ammunition, other than such a firearm listed in a regulation to be made by the Minister, in consultation with the Commissioner;
- b) a semi automatic centre-fire rifle;
- c) a shotgun manufactured to hold more than three cartridges.

(2) Any firearm certificate in respect of a firearm to which subsection (1) of this section relates, granted between [x/xxx/2014- Date of Minister's announcement] and the date of commencement of this section and in force shall stand revoked.

**Note**

The section bans new applications for certificates for short firearms using 0.22 inch long rifle rim fire percussion ammunition that are not listed in a new "white list" of licensable handguns. Taken together with new section 9A(1)(c) of the Firearms Act 1964 under Head 4, only these "approved" 0.22 handguns shall be licensable or renewable.

The section also bans new application for certificates for semi-automatic centre fire rifles and shotguns capable of holding more than 3 rounds. Taken together with new section 9A(1)(c) and 9A(1)(d) of the Firearms Act 1964 under Head 4, which bans the renewal of certificates for such firearms, there will be an effective ban on all such firearms.

Heads 4 and 5 are drafted so as not to interfere with current litigation.

## **Head 6 - Amendment to section 15A of the Firearms Act 1925.**

### **Appeal to District Court**

Section 15A of the Firearms Act is amended-

by the insertion in subsection (1) of the following paragraphs after paragraph (l):

- “(m) to impose a condition or conditions on the granting or renewing of a firearm certificate,
- (n) to impose a condition or conditions on the granting of a firearms training certificate or
- (o) to impose a condition or conditions on the granting or renewal of an authorisation for a rifle or pistol club or shooting range under section 4A of this Act.”

### **Note**

Section 15A provides for an appeal to the District Court by a person aggrieved by a decision of an issuing person. This amendment allows a person to appeal a decision by an issuing person to impose a condition on the granting or renewing of a firearm certificate, the granting of a firearms training certificate or the granting or renewal of an authorisation under section 4A of the Firearms Act 1925, as amended.

## Head 7

### **Proposed Amendment of Explosives Act 1875 (To allow for limited Filling of Cartridges)**

1. Delete the following provision from Section 5. –  
*“Provided that this section shall not apply-*
  1. *To a person keeping for his private use and not for sale gunpowder to an amount not exceeding on the same premises thirty pounds”*
  
2. The following section is substituted for section 41 of the explosives Act 1875:  
*Exemption of filling or carrying safety cartridges for private use*  
Sec 41 –
  1. Nothing in this Act shall apply to the conveying for private use and not for sale any safety cartridges to the amount allowed by this Act to be kept for private use.
  2. Nothing in this Act shall apply to the filling by a person for private use and not for sale any safety cartridges to the amount allowed by this Act to be kept for private use, provided such filling is-
    - a) carried out only in a filling room in accordance with such conditions relating to public safety or security as may be imposed by a Government Inspector of Explosives and is;
    - b) carried out by, or under the direct supervision of, a competent person, and is
    - c) carried out by a person who is a member of a club to which an authorisation under section 4A (inserted by section 33 of the Criminal Justice Act 2006 (No. 26 of 2006)) has been granted.
  
2. The following section is substituted for section 46 of the explosives Act 1875:  
*Provision in favour of gunmakers etc making cartridges*  
Sec 46-  
The occupier of a magazine, or store, for any explosive shall not be required by this Act to take out a factory license by reason that in connexion with such magazine or store he fills for sale or otherwise any cartridge for small arms with the said explosive, provided-
  - a) such filling is-
    - 1) carried out only in a filling room in accordance with such conditions relating to public safety or security as may be imposed by a Government Inspector of Explosives ;
    - 2) carried out by a competent person, and
  - b) The occupier of such magazine or store is a firearms dealer registered in accordance with the Firearms Act 1925

In these sections-



"filling room" means a room suitable for the filling or making of cartridges,

- (a) which is located at-
  - (1) a shooting range in respect of which an authorisation under section 4A (inserted by section 33 of the Criminal Justice Act 2006) of the Firearms Act 1925 has been granted, and
  - (2) at a distance, specified by a Government Inspector of Explosives from a store or magazine on that shooting range; and
- (b) where such filling activity has been notified in advance, in writing, to the licensor of the store or magazine, and to An Garda Siochana

"competent person", in relation to filling, means a person who, having regard to the task or work he or she is required to perform, and taking account of the size or hazards (or both of them) of the undertaking or establishment in which he or she undertakes the task or work, possesses sufficient training, experience and knowledge appropriate to the nature of the work activity to be undertaken.

## Note

Reloading, manufacture, or filling<sup>1</sup> of ammunition essentially involves the making of new ammunition from used or new components. Fired cartridge cases can be reused by fitting them with new primers (percussion caps), filling the case with the specified propellant powder weight, and fitting new bullets to the case. The process can be done using simple hand operated presses and tools (hand-loading), or automated (auto-loading). Reloading can be up to 50% cheaper than purchasing new ammunition, but also (when done properly) can improve accuracy and consistency for long range precision shooting. However there are also safety and security concerns associated with this activity.

This Head amends the 1875 Explosives Act to provide for the filling and keeping of explosives for private use, under very limited circumstances. It takes into account safety and security concerns and removes current inconsistencies and anomalies.

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<sup>1</sup> "Filling" is the term used in the Explosives Act 1875, "Reloading" is the term used in the Criminal Justice Act 2006, and "Manufacture" is the term used in the Firearms Act 1925

## **Head 8 New Section 3F of the Firearms Act 1925**

### **Altering the marking of a firearm**

3F(1) A person who intentionally falsifies, illicitly obliterates, removes or alters the marking of a firearm shall be guilty of an offence.

- (2) A person who is guilty of an offence under this section is liable—
- (a) in case the firearm is a restricted firearm —
    - (i) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both, and
    - (ii) on conviction on indictment, to a fine not exceeding €20,000 or imprisonment for a term not exceeding 7 years or both,
  - and
  - (b) in any other case—
    - (i) on summary conviction, to a fine not exceeding €2,500 or imprisonment for a term not exceeding 12 months or both, and
    - (ii) on conviction on indictment, to a fine not exceeding €10,000 or imprisonment for a term not exceeding 5 years or both.]

### **Note**

Article 5(1)(c) of the UN Firearms Protocol\* requires State Parties to establish criminal offences for persons falsifying or illicitly obliterating, removing or altering the marking on firearms as required under Article 8 of the Protocol. Although section 6 of the Firearms (Proofing) Act 1968 provides that a person shall not apply a mark to a firearm such as to be calculated to deceive, this would not fully meet the requirements of Article 5(1)(c). Accordingly, this Head seeks to introduce a new offence which complies with Article 5(1)(c).

\*Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime. EU Directive 2008/51/EC integrates the appropriate provisions required by the Firearms Protocol as regards intra-Community transfers of weapons. S.I. 493 of 2010 transposed the Directive into Irish law.

## **Head 9 – new Section 3G of the Firearms Act 1925**

### **Marking a firearm on import**

3G(1) The Minister may make regulations to give effect to article 8(1)(b) of the Protocol against the illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organised Crime in relation to marking of each imported firearm, permitting identification of the country of import (Ireland) and the year of import.

(2) Such regulations shall apply where the State is the place of import onto the Community market of a firearm to which European Communities (Acquisition and Possession of Weapons and Ammunition) (Amendment) Regulations 2010 applies.

(3) Such regulations shall specify the unique markings of a firearm for the State [Ireland] as country of import and for the year of import.

(4) The unique markings referred to in subsection (3) shall be engraved upon an essential component of the firearm concerned, to be specified in the Regulations.

#### **Note**

Article 8(1)(b) of the Firearms Protocol requires States to mark imported firearms permitting identification of the country of import and, where possible, the year of import, enabling the competent authorities to trace the firearm. A unique marking is required if the firearm does not bear such a marking.

S.I.493 of 2010 (Regulation 6 and schedule 2, part 2) already provides for marking of firearms which are imported from outside the EU. However, the S.I. provides for the marking on the imported firearm of the name of the manufacturer, the name of the country of manufacture, the year of manufacture and the unique serial no. of the firearm as required by Firearms Directive 2008/51/EC. It does not provide for the marking of the country of import or the year of import.

Accordingly Head 9 seeks to give effect to article 8(1)(b) by providing for the marking of the country of import and the year of import. It is envisaged, for example, where a firearm was imported into Ireland in 2014, the marking could simply read IMP IRL 2014.

To comply with the Protocol, all firearms imported into the EU for the first time should be stamped by the importing Member State with a mark identifying the country and year of import; The intra-EU trade in firearms will not require an additional import mark each time a firearm crosses an internal EU border. However, firearms permanently exported from the EU which subsequently return should be re-stamped with a new import mark and a fresh record made.

## **Head 10 – new Section 6B of the Firearms Act 1925**

### **Disposal of firearms**

6B(1) The Minister may in consultation with the Commissioner make regulations to give effect to article 6(2) of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organised Crime on measures to destroy illicitly manufactured and trafficked firearms and ammunition.

(2) Subject to subsection (3), such regulations shall specify the conditions for the destruction of firearms and ammunition which have been illicitly manufactured or trafficked.

(3) Such regulations shall provide for disposal other than by destruction according to one or more of the following criteria:

- (a) Forensic
- (b) [Scientific]
- (c) Historical

#### **Note**

Article 6 of the Firearm Protocol provides for the confiscation, seizure and disposal of illicitly manufacture or trafficked firearms and ammunition.

Regarding article 6(1), article 12 of the Convention requires State Parties to adopt measures in domestic law to enable confiscation of the proceeds, instrumentalities etc. of crime arising from the offences covered by the Convention. Sections 4 and 9 of the Criminal Justice Act 1994 together with the Criminal Assets Bureau Act 1996 and the Proceeds of Crime Act 1996 (as amended by the 2005 Act) ensure compliance with this article. In addition, s. 61 of the 1994 Act provides that a court, following a conviction of a person for an offence, may make an order for the forfeiture of property used for the purpose of committing or facilitating the commission of an offence or which was intended for such purpose. Property may also be forfeited under s.61 where the offence consists of unlawful possession of property which has been lawfully seized from the offender or which was in his/her possession when apprehended for the offence.

More specifically, section 23 of the Firearms Act 1925 provides for the forfeiture or disposal of any firearm or ammunition where a person is convicted an offence under the Firearms Acts.

However, article 6.2 of the Protocol requires the destruction of firearms and ammunition which have been illicitly manufactured or trafficked. There is a reference in section 6(f) of the Firearms Act 1925, as amended, providing for the destruction of firearms that have not been sold but this would not appear to fulfil the obligation under article 6.2. Accordingly, this Head provides for the Minister to make regulations to give effect to article 6(2) of the Protocol.

### **Head 11 – Repeal of section 36 of the Criminal Justice Act (Miscellaneous Provisions) Act 2009**

Section 36 of the Criminal Justice Act (Miscellaneous Provisions) Act 2009 is hereby repealed.

### **Head 12 – Repeal of section 38 of the Criminal Justice Act (Miscellaneous Provisions) Act 2009**

Section 38 of the Criminal Justice Act (Miscellaneous Provisions) Act 2009 is hereby repealed.

#### **Note**

Sections 36 and 38 of the Criminal Justice Act (Miscellaneous Provisions) Act 2009 substituted new sections for section 17 of the Firearms Act 1925 and section 21 of the Firearms Act 1964 respectively. However sections 36 and 38 were never commenced.

The net effect of Section 36 is that firearms could only be imported into the State by a registered firearms dealer. The net effect of Section 38 is that all imports required importation licences whether or not a firearm certificate was granted for the firearm concerned.

Sections 36 and 38 were intended to address distance selling of firearms as required under the Firearms Directive 2000/51/EC. However the Directive has since been transposed by S.I. 493 of 2010 without the need to commence sections 36 and 38. Sections 36 and 38 could have also created difficulties for Irish shooters returning from trips abroad with their firearms as the firearms concerned might have been considered imports requiring importation licences.

Accordingly, Heads 11 and 12 repeal sections 36 and 38 as they are no longer required.

### **Head 13 – Amendment to section 5 of the Firearms Act 1925 Revocation of certificate issued in error**

Section 5 of the Firearms Act 1925 is amended by the insertion of the following subsection after subsection 5(1):

5(1A) An issuing person may at any time revoke a firearm certificate if satisfied that the firearm certificate issued in contravention of the Firearms Acts 1925-2014.

#### **Note**

This Head provides for the revocation of a certificate 'issued in error' by an issuing person. To put this in context, there are numerous cases of a Superintendent/Chief Superintendent issuing a certificate and finding later that they made a mistake, by for example, issuing a restricted certificate instead of an unrestricted firearm certificate or vice versa. At the moment, there does not appear to be a facility in law to cancel such a certificate issued in error.

## **Appendix B to the Working Group Report**

### **International Comparison / Country profiles**

#### **United Kingdom**

##### **Primary legislation**

*Firearms Act 1968*

##### **Other legislation**

*The Firearms (Amendment) Act 1988*

*Firearms (Amendment) Act 1997*

##### **Policy development**

Laws have generally been enacted in response to massacres and overwhelming public support that backed the introduction of prohibitions on firearms. For example, the 1988 Act banned the ownership of high-powered self-loading rifles and burst-firing weapons, and imposed stricter standards for issuing ownership certification for pump-action shotguns with a magazine of more than two bullets. Almost 10 years later the Firearms (Amendment) Act 1997 was passed in response to overwhelming public opinion that firearms should be banned from use by the civilian population and served to essentially prohibit the private ownership of handguns in Britain.

The tightening of legislation in regard to gun ownership is focused on better ensuring public safety while at the same time seeking to protect the interests of legitimate gun owners.

##### **Types of prohibited weapons**

- any firearm which is so designed or adapted that two or more missiles can be successively discharged without repeated pressure on the trigger;
- any self-loading or pump-action rifled gun other than one which is chambered for .22 rim-fire cartridges;
- 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 designed as signalling apparatus;
- 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 . . . is less than 40 inches in length overall;
- any smooth-bore revolver gun other than one which is chambered for 9mm. rim-fire cartridges or a muzzle-loading gun;

- 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;
- any air rifle, air gun or air pistol which uses, or is designed or adapted for use with, a self-contained gas cartridge system;
- any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or other thing; and
- 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.

## **Regulation of gun ownership**

### **Prohibited Individuals**

Individuals absolutely prohibited from obtaining a firearm or shotgun certificate include those who have been sentenced to any form of custody or preventive detention for three years or more. Those with sentences for more than three months but less than three years cannot possess firearms or ammunition for a period of five years after the date of release.

### **Background checks**

The chief officer of police may grant a firearm certificate if he is satisfied that the applicant is not prohibited by the Firearms Act from possessing a firearm; is fit to be entrusted with a firearm; has good reason for possessing, purchasing, or acquiring the firearm or ammunition; and that the applicant's possession of the firearm does not pose a danger to public safety or the peace. This function is administered by civilian staff on behalf of the police.

The application forms for both firearm and shotgun certificates require information such as the medical history of the applicant, including a provision that allows the police to obtain the applicant's medical history from his/her doctor. The police typically check with the doctor if there is evidence of alcoholism, drug abuse or signs of personality disorder. Social services can also be asked for reasons to turn down an applicant. Normally checks are made in cases where there are doubts about the information provided in an application form.

Certificates are valid for 5 years.

### **Revocation of Certificates- UK**

Firearm certificates may be revoked if the person is



- A danger to public safety or to the peace;
- Of intemperate habits;
- Of unsound mind;
- Unfit to be entrusted with such a firearm;
- A prohibited person under the Firearms Act; or
- No longer has 'good reason' for possession.

Intemperate habits may include evidence of alcohol or drug abuse; aggressive or antisocial behaviour, such as domestic disputes; or hostility towards a group of people.

When determining whether a person is unfit to possess a firearm, the police consider whether the person is a prohibited person under the Firearms Act, whether they have any convictions or cautions, or whether they have any other known involvement in criminal offenses.

The issue of soundness of mind is a complex and sensitive topic. The police are required to consider any "signs of depression, suicidal tendencies, long-standing or intermittent periods of either emotional instability or unpredictable behaviour. Though mental health issues are not seen a stand alone reason to deny someone a firearms certificate rather it is seen as one of a number of other factors that need to be taken into consideration.

Individuals convicted of an offense under the Firearms Act, or a crime where a term of imprisonment is imposed, can be ordered by the court to forfeit or dispose of any firearm or ammunition held, and cancel any firearm or shotgun certificate held by the individual.

## Norway

### **Primary legislation**

*Act on Firearms and Ammunition, etc. (Act No. 1 of June 9, 1961)*

### **Other legislation**

*Regulation No. 904 of June 25, 2009*

### **Policy development**

Norway operates a restrictive policy in terms of gun ownership with most legally held guns being for the purpose of sport/hunting. Norway's gun laws were not significantly amended in light of the events of 2011 (the shootings in Oslo in July 2011 where 77 people were killed and more were seriously injured), however the country's Mental Health Act has been revised to include a new chapter on enhanced security in institutions that accommodate the severely mentally ill or persons at risk for serious violent behaviour.

### **Prohibited weapons**

The Firearms Regulations make it illegal to acquire, hold, or possess firearms normally used as

- (a) weapons of war,
- (b) **fully automatic** weapons, and
- (c) firearms disguised as other objects

The National Police Directorate (*Politidirektoratet*) (NPD) may issue regulations that prohibit the acquisition, ownership, or possession of firearms or types of firearms that through their design or operation are perceived to be especially dangerous or inappropriate for use.

The acquisition, ownership, or possession of **certain semiautomatic** weapons is also banned by the Firearms Regulations. Semiautomatic weapons that can be easily converted to produce fully automatic fire are banned. Prospective owners of a semiautomatic weapon must obtain police approval for the weapon.

Generally, semi-automatic weapons approved under rules in another European Economic Area country will be approved by the NPD.

Many categories of weapons, including some **powerful handguns**, have also been banned from sale.

### **Regulation of gun ownership- Norway**

Permission to acquire a firearm or firearm parts will generally not be granted to anyone less than eighteen years of age while the permitted age for acquisition of revolvers or pistols or their parts is twenty-one. Similarly, those who intend to buy or otherwise acquire ammunition must also have a police permit. The permit will only cover a certain quantity of ammunition and may not be made valid for a period longer than three months. Also the same regulations applying to guns also apply to ammunition.

The police commissioner will revoke the firearms permit if the holder is not “sober and reliable” or if there are special circumstances that cause the holder to be deemed unfit to have a firearm. The permit can also be revoked if the holder no longer needs to have the firearm or on other reasonable grounds.

## **Australia**

### **Legislation**

The sale, possession, and use of firearms are regulated by the Australian states and territories, with cross-border trade matters addressed at the federal level. However in 1996, the federal government and the states and territories agreed to a uniform approach to firearms regulation.

### **Federal legislation**

At the federal level, the importation of firearms is subject to the restrictions in Regulation 4F and Schedule 6 of the Customs (Prohibited Goods) Regulations 1956

## **Policy development**

Prior to 1996, gun laws in Australia were considered relatively lenient, with significant differences in the regulations across states and territories. Firearms regulation is the responsibility of individual Australian states and territories, as section 51 of the Australian Constitution does not confer lawmaking powers in relation to firearms on the federal Parliament. Federal laws can be enacted regarding the import of firearms and other weapons under the overseas trade and commerce powers of the federal Parliament. The Australian Constitution does not contain any explicit gun ownership rights.

However, in 1996 a shooting incident involving an adult male armed with a semiautomatic rifle shot and killed thirty-five people and wounded eighteen others at several locations in and around Port Arthur, Tasmania, Australia. In response, the Australian Police Ministers' Council (APMC) convened a special meeting on May 10, 1996, and agreed to a national plan. The resolutions made at that meeting subsequently became the Nationwide Agreement on Firearms. The proposals emerged from earlier recommendations of the National Committee on Violence, which was established in 1988 following two mass killings in Melbourne involving high-powered rifles.

The APMC had previously considered the need for a uniform approach to firearms regulation between 1988 and 1995, and some state and federal laws had been changed during this period in response to shooting incidents.

The 1996 National Firearms Agreement led to the considerable revision of the laws of the states and territories and the implementation of a national buyback programme, in order to encourage firearms owners and dealers to surrender prohibited weapons.

## **Types of prohibited weapons (based on the 1996 National Firearms Agreement)**

- a federal ban on the importation of firearms, included in Licence Category D, and control of the importation of those firearms included in Licence Category C.”

### *Licence Category C (prohibited except for occupational purposes)*

\* semi automatic rimfire rifles with a magazine capacity no greater than 10 rounds;

\* semi automatic shotguns with a magazine capacity no greater than 5 rounds;

\* pump action shotguns with a magazine capacity no greater than 5 rounds.

### *Licence Category D (Prohibited, except for official purposes)*

- \* self-loading centre fire rifles designed or adapted for military purposes or a firearm which substantially duplicates those rifles in design, function or appearance.
- \* non-military style self-loading centre fire rifles with either an integral or detachable magazine;
- \* self-loading shotguns with either an integral or detachable magazine and pump action shotguns with a capacity of more than 5 rounds;
- \* self-loading rim-fire rifles with a magazine capacity greater than 10 rounds.

*Licence Category H: (Restricted)*

- \* all handguns, including air pistols
  - The sale, resale, transfer, ownership, manufacture, and use of such firearms would also be banned by the states and territories, other than in exceptional circumstances (relating to military or law enforcement purposes and occupational categories, depending on the category of the firearm);
  - Standard categories of firearms, including the two largely prohibited categories (C and D), which include certain semiautomatic and self-loading rifles and shotguns, and a restricted category for handguns (category H) (See annex);
  - restrictions on the quantity of ammunition that may be purchased in a given period and a requirement that dealers only sell ammunition for firearms for which the purchaser is licensed

## **Regulation of gun ownership**

### **Prohibited Individuals**

- Persons with criminal convictions for violent offences in the past five years including domestic violence,
- Persons with unsafe storage of firearms,
- Persons who fail to notify of a change of address, and
- Persons for whom there is reliable evidence of a mental or physical condition which would render the applicant unsuitable for owning, possessing or using a firearm.

## Finland

### **Legislation**

Firearms Act of 1998.

#### *Other legislation*

The Act on the Export and Transit of Defence Materiel, the Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons, and the Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms.

### **Types of prohibited weapons**

Automatic Firearms: special restrictions apply to some or all firearms in this category

#### *No special restrictions apply to;*

Semi-automatic Firearms & handguns;

Semi-automatic firearms are not categorically prohibited; however, an acquisition permit will only be granted for a firearm that on the basis of the number of cartridges in the magazine, the calibre or other properties, and with regard to the purpose of use notified by the applicant, is not unnecessarily powerful or efficient, and which is suitable for the purpose of use notified by the applicant.

### **Regulation of gun ownership**

Guns in Finland are regulated by the Ministry of the Interior and the local Police.

Applicants for a gun owner's licence in Finland are required to prove genuine reason to possess a firearm, for example, hunting, target shooting, gun collecting, employment requirements. Before granting an acquisition permit, the authorities will also consider whether the firearm sought is not unnecessarily powerful or efficient and is suitable for the purpose for which the permit is granted (Finland, 1998, s. 43, 44).

### **Background checks and restrictions**

Background checks are carried out on criminal and mental health records.

There is no specific mention of domestic violence in this regard.

Finland is considering introducing similar legislation that would give doctors and other healthcare professionals a right under law to notify the police of a person who may, on the basis of his or her state of health, be considered unsuitable for possessing a firearm (Finland, 2009a, s. 114; 2009b). (Small arms survey 11, Chapter 9, p 16).

## Germany

### **Legislation**

Guiding gun control legislation in Germany includes the Basic Law, War Weapons Control Act, the Weapons Act, the Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons, and the Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms.

### **Background Checks**

An applicant for a firearm licence in Germany must pass background checks which consider criminal and mental records. Persons who are

- convicted felons
- have a record of mental disorder or
- are deemed unreliable (which includes people with drug or alcohol addiction histories and known violent or aggressive persons)

are barred from obtaining a firearms ownership license.

### **Prohibited weapons**

#### **Regulation of Automatic Assault Weapons**

Private possession of fully automatic weapons is prohibited.

#### **Regulation of Semiautomatic Assault Weapons**

Private possession of semi-automatic assault weapons is permitted only with special authorisation.

#### **Regulation of Handguns**

Private possession of handguns (pistols and revolvers) is permitted only with special authorisation.

Criterion for granting a weapon.

A number of criteria must be met before a firearms ownership license is issued:

- age of majority (18 years)
- trustworthiness
- personal adequacy
- expert knowledge
- necessity

## Canada

In Canada, the right to private gun ownership is not guaranteed by law.

### **Reason Required for Firearm Licence**

No requirement to prove genuine reason to possess a firearm except when the licence concerns prohibited and restricted firearms.

### **Background Checks**

An applicant for a firearm licence in Canada must pass background checks which consider criminal, mental, addiction and domestic violence records.

#### *Domestic Violence and Firearms*

Where a past history, or apprehended likelihood of family violence exists, the law in Canada stipulates that a gun licence should be denied or revoked.

### **Limit on Quantity, Type of Ammunition**

A licensed firearm owner in Canada is permitted to possess any quantity of ammunition.

### **Prohibited weapons and restricted firearms**

According to the *Criminal Code*, a prohibited firearm is:

- a. a handgun that
  - has a barrel **equal to or less than 105 mm** in length, or
  - is designed or adapted to **discharge a 25 or 32 calibre cartridge**, but does not include any such handgun that is prescribed, where the handgun is for use in international sporting competitions governed by the rules of the International Shooting Union,
- b. a firearm that is adapted from a **rifle or shotgun**, whether by sawing, cutting or any other alteration, and that, as so adapted,
  - is less than 660 mm in length, or
  - is 660 mm or greater in length and has a barrel less than 457 mm in length,
- c. an automatic firearm, whether or not it has been altered to discharge only one projectile with one pressure of the trigger, or
- d. any firearm that is prescribed to be a prohibited firearm.

### **Summary of key requirements**

Individuals are allowed to possess certain prohibited firearms if they had one registered in their name when it became prohibited, and they have continuously held a valid registration certificate for that type of prohibited firearm from December 1, 1998, onward. The Firearms Act refers to this as being “grandfathered”.

### **Restricted firearms;**

According to the Criminal Code, a restricted firearm is:

- a. a handgun that is not a prohibited firearm,
- b. a firearm that
  - o is not a prohibited firearm,
  - o has a barrel **less than 470 mm** in length, and
  - o **is capable of discharging centre-fire ammunition in a semi-automatic manner,**
- c. a firearm that is designed or adapted to be fired when reduced to a length of less than 660 mm by folding, telescoping or otherwise, or
- d. a firearm of any other kind that is prescribed to be a restricted firearm

### **Summary of key requirements**

**Individuals require:**

- a firearms license that is valid for restricted firearms in order to possess or acquire a restricted firearm and to obtain ammunition.
- a registration certificate issued under the Firearms Act for all restricted firearms in their possession.
- an Authorization to Transport, issued by the Chief Firearms Officer (CFO) of their provincial or territorial jurisdiction, in order to transport a restricted firearm from one location to another.

### **Firearms license**

Individuals who do not yet have a firearms license, or who wish to change their licence privileges to include restricted firearms, must apply for a Possession and Acquisition Licence (PAL - form RCMP 5592).

**Exception:** Individuals who had a POL that expired after January 1, 2004, may obtain a new POL to possess restricted firearms if:

- they apply before May 16, 2014;
- they still possess restricted firearms that were registered to them;



- they still require them for an approved purpose; and,
- they pass the public-safety checks.

***Permitted purposes for a restricted firearm***

There are a few purposes for which individuals can be licensed to acquire or possess a restricted firearm, the most common being target practice or target shooting competitions, or as part of a collection.

In limited circumstances, restricted firearms are also allowed for use in connection with one’s lawful profession or occupation, or to protect life.

***Exception:*** Individuals who have a firearm that is registered to them as a **relic** under the former legislation may continue to possess it for that purpose. However, they cannot pass that designation on to the next owner. The next owner can acquire the firearm only for one of the purposes referred to above.

As set out in the *Firearms Act*, a relic firearm is one that is of value as a curiosity or rarity, or that is valued as a memento, remembrance or souvenir.

***Criteria for each purpose***

Depending on which purpose is claimed, there are specific criteria that must be met, as follows:

**Employment Purposes and Protection of Life**

In limited circumstances, an individual may be authorized to possess or acquire a restricted firearm for employment purposes or for protection of life.

**Eligibility to hold licenses**

**Criterion for not granting a license**

**Public safety**

5. (1) If it is desirable, in the interests of the safety of that or any other person, that the person not possess a firearm, a cross-bow, a prohibited weapon, a restricted weapon, a prohibited device, ammunition or prohibited ammunition.

**Criteria for establish public safety**

5. (2) A chief firearms officer (who is a civilian employed by the Royal Canadian Mounted Police) or, on a reference under section 74, a provincial court judge shall have regard to whether the person, within the previous five years,

(a) has been convicted or discharged under section 730 of the *Criminal Code* of

(i) an offence in the commission of which violence against another person was used, threatened or attempted,

(ii) an offence under this Act or Part III of the *Criminal Code*,

(iii) an offence under section 264 of the *Criminal Code* (criminal harassment), or

(iv) an offence relating to the contravention of subsection 5(1) or (2), 6(1) or (2) or 7(1) of the *Controlled Drugs and Substances Act*;

(b) has been treated for a mental illness, whether in a hospital, mental institute, psychiatric clinic or otherwise and whether or not the person was confined to such a hospital, institute or clinic, that was associated with violence or threatened or attempted violence on the part of the person against any person; or

(c) has a history of behaviour that includes violence or threatened or attempted violence on the part of the person against any person.

Exception

(3) Notwithstanding subsection (2), in determining whether a non-resident who is eighteen years old or older and by or on behalf of whom an application is made for a sixty-day licence authorizing the non-resident to possess firearms that are neither prohibited firearms nor restricted firearms is eligible to hold a licence under subsection (1), a chief firearms officer or, on a reference under section 74, a provincial court judge may but need not have regard to the criteria described in subsection (2).

## **Canada prohibited weapons**

Individuals are allowed to possess certain prohibited firearms if they had one registered in their name when it became prohibited. The *Firearms Act* refers to this as being “grandfathered”. Details of this system are below.

### ***Exceptions to prohibition***

#### ***Automatic/semi-automatic weapons***

(a) A particular individual who on January 1, 1978 possessed one or more automatic firearms;

(b) who on the commencement day held a registration certificate under the former Act for one or more automatic firearms; and

(c) beginning on the commencement day was continuously the holder of a registration certificate for one or more automatic firearms.

#### ***Handguns***

(a) on December 1, 1998 the particular individual

(i) who held a registration certificate under the former Act for that kind of handgun, or

(ii) who had applied for a registration certificate that was subsequently issued for that kind of handgun; and

(b) beginning on December 1, 1998 the particular individual who was continuously the holder of a registration certificate for that kind of handgun.

The former applies in respect of a handgun

12(6) (a) that has a **barrel equal to or less than 105 mm in length or that is designed or adapted to discharge a 25 or 32 calibre cartridge**; and

(b) in respect of which

(i) on December 1, 1998 a registration certificate had been issued to an individual under the former Act,

- (ii) on December 1, 1998 a registration certificate had been applied for by an individual under the former Act, if the certificate was subsequently issued to the individual, or
- (iii) a record was sent before December 1, 1998 to the Commissioner of the Royal Canadian Mounted Police and received by that officer before, on or after that date.

### **Evidence for restricting access to prohibited weapons**

No specific reasons are given as to why these particular firearms are considered prohibited. However, reasons for not granting a license seem to be based on public safety grounds.

### **Pivotal points in the development of Canadian gun law**

#### **1991-1994**

Bill C-17 was introduced. Changes to the licensing system included requiring applicants to provide a photograph and two references; imposing a mandatory 28-day waiting period for an FAC; a mandatory requirement for safety training; and expanding the application form to provide more background information. Bill C-17 also required a more detailed screening check of FAC applicants. A major focus of the new legislation was the need for controls on military, para-military and high-firepower guns. New controls in this area included the prohibition of large-capacity cartridge magazines for automatic and semi-automatic firearms, the prohibition of automatic firearms that had been converted to avoid the 1978 prohibition (existing owners were exempted); and a series of Orders-in-Council prohibiting or restricting most para-military rifles and some types of non-sporting ammunition.

**Appendix C to the Working Group Report**

**Statistics annexed to the;  
Communication from the Commission to the Council and the European  
Parliament,**

**Firearms and the internal security of the EU: protecting citizens and  
disrupting illegal trafficking.**



EUROPEAN  
COMMISSION

Brussels, 21.10.2013  
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**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE  
EUROPEAN PARLIAMENT**

**Firearms and the internal security of the EU: protecting citizens and disrupting illegal  
trafficking**



## ANNEX 2: Statistics

### **2011 production of civilian firearms in EU-27 (units) (*world in italics*)<sup>68</sup>:**

Total: 1 974 156 (*10 255 580*)

Short guns: 806 645 (*1 219 000*)

Long guns 1 167 511 (*5 074 395*)

### **2011 exports of civil firearms in EU-27 (units)<sup>69</sup>:**

Total 1 200 941

Short guns 566 345

Long guns 634 596

### **2011 imports of civilian firearms in EU-27 2011 (units)<sup>70</sup>:**

Total: 195 382

Short guns: 25 958

Long guns: 169 424

### **2011 exports of civilian and military firearms in EU-28 (Value in EUR)<sup>71</sup>:**

Total: 931 633 044

### **National statistics on legal ownership and homicide by firearms<sup>72</sup>**

	<b>Legally held firearms per 100 population</b>	<b>Homicides by firearms per 100 000 population</b>	<b>Suicides by firearms per 100 000 population</b>
Belgium	17.2	0.68	1.96
Bulgaria	6.2	0.67	0.87
Czech Republic	16.3	0.19	1.39
Germany	30.3	0.19	0.94
Denmark	12	0.27	1.16
Estonia	9.2	0.24	1.57

<sup>68</sup> Source: World Forum of Shooting Activities March 2013 using information from proof houses; composed of official figures from Belgium, Finland, France, Germany, Italy, Spain and UK, estimates for other Member States.

<sup>69</sup> Eurostat.

<sup>70</sup> Eurostat. A number of Member States did not report any exports of pistols and revolvers (Austria, Belgium, Bulgaria, France, Romania) and military firearms (Austria, Belgium, Bulgaria, Finland, France, Germany, Italy, Romania).

<sup>71</sup> Source: Peace Research Institute Oslo.

<sup>72</sup> Source: UNODC, Small Arms Survey, [www.gunpolicy.org](http://www.gunpolicy.org); these figures may be compared with responses to the Eurobarometer 383 where on average 5% declared that they owned a firearm, varying between 1% in Netherlands and 18% in Cyprus.

	Legally held fi per 100 popul
Ireland	8.6
Greece	22.5
Spain	10.4
France	31.2
Croatia	21.7
Italy	11.9
Cyprus	36.4
Latvia	19
Lithuania	0.7
Luxembourg	15.3
Hungary	5.5
Malta	11.9
Netherlands	3.9
Austria	21.9
Poland	1.3
Portugal	8.5
Romania	0.7
Slovenia	13.5
Slovakia	8.3
Finland	45.3
Sweden	31.6
United Kingdom	6.5