

# **ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014**

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## **EXPLANATORY NOTES**

### **BACKGROUND**

#### **Part 8: Firearms**

##### **Firearms control**

25. The use of illegal firearms by urban street gangs and organised criminal groups is a continuing cause of concern. In 2010 the Home Affairs Select Committee conducted an inquiry into firearms control. In its report (Third Report of Session 2010-2011, HC 447) the Committee recommended that the Government should “introduce new offences for supply and importation of firearms to ensure that those guilty of such offences face appropriate penalties”. In its report *Ending Gang and Youth Violence*,<sup>1</sup> published in November 2011, the Government undertook to consult “on the need for a new offence of possession of illegal firearms with intent to supply, and the penalty level for illegal firearms importation”. The consultation document, *Consultation on legislative changes to firearms control*, was published on 8 February 2012.<sup>2</sup> The Government’s response to the consultation was published on 22 October 2012. In a written ministerial statement (House of Commons, Official Report, column 44WS; House of Lords, Official Report, column WS1), the Minister for Policing and Criminal Justice announced that the Government would increase the maximum penalty for the illegal importation of firearms to life imprisonment and create a new offence of possession with intent to supply with a maximum sentence of life imprisonment. Sections 108, 109 and 111 give effect to this.

##### **Firearms licensing – Persons previously convicted of crime**

26. Two loopholes have come to light in the Firearms Act 1968 (“the 1968 Act”). At present, persons with suspended sentences are not prohibited from possessing firearms or shotguns in the same way as persons who have served custodial sentences. In 2010, the Home Affairs Select Committee recommended that “the legislation should be amended to clarify that persons in receipt of wholly suspended sentences are subject to the same prohibitions from obtaining a licence to hold section 1 firearms or shotguns as they would be if their sentence had not been suspended”. The Government undertook to carry out further work to assess the practicalities of implementing such a change, which section 110 now makes.<sup>3</sup> The second change that section 110 makes is to ensure that prohibited persons are unable to possess antique firearms. Intelligence suggests that there is growing interest from criminal groups in antique firearms, which can currently be possessed as ornament or curiosities without the need to hold a firearms certificate.

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<sup>1</sup> <http://www.homeoffice.gov.uk/publications/crime/ending-gang-violence/>

<sup>2</sup> <http://www.homeoffice.gov.uk/publications/about-us/consultations/firearms-legislation/>

<sup>3</sup> Government Response to the Third Report from the Home Affairs Select Committee Session 2010-11, HC 4447, <http://www.official-documents.gov.uk/document/cm81/8155/8155.pdf>

## **Firearms licensing – British Transport Police**

27. The development of a British Transport Police (“BTP”) armed capability to respond as and when necessary to protect the public and avoid the need for other police forces, such as the Metropolitan Police, to divert their armed resources at times of heightened threat, was announced in a written ministerial statement on 24 May 2011 (House of Commons, Official Report, column 51WS; House of Lords, Official Report, column WS109). The establishment of that capability has been hampered by the current firearms licensing arrangements which place BTP officers in a different position to that enjoyed by officers from the territorial police forces in England and Wales and the Police Service of Scotland. The provisions of the 1968 Act apply to “police forces” with modifications which mean that police forces are not required to obtain certificates for firearms under the 1968 Act. However, the term “police force” is not defined in the 1968 Act. The Interpretation Act 1978 provides a general definition that any reference to “police” within legislation takes its definition from the Police Act 1996 (“the 1996 Act”) or in relation to Scotland, the Police and Fire Reform (Scotland) Act 2012, but neither Act includes BTP. The result of this anomaly is that BTP officers are not deemed “Crown servants” for the purpose of the 1968 Act and therefore do not benefit from the modifications to the Act that apply to police officers.
28. Individual officers, who may be required to exercise deadly force in the execution of their statutory functions in the protection of the public, must therefore apply to their local police force in a private capacity for a firearms certificate to enable them to perform a role on behalf of the State. They must rely on the same legal authority to possess firearms, and follow the same licensing procedure as individuals holding firearms for the purposes of sport and recreation. Apart from this unsatisfactory legal position, there are operational and procedural disadvantages to the current approach, which limit the flexibility of deployment and potentially undermine the capability. Section 112 brings BTP firearms officers within the modification in section 54 of the 1968 Act.