

**EXPLANATORY MEMORANDUM TO**  
**THE FIREARMS REGULATIONS 2019**

**2019 No. 1420**

**1. Introduction**

1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 The purpose of this instrument is to introduce changes to the controls on firearms relating to:

- the notification of deactivated firearms held in the United Kingdom and their transfer; and
- in Northern Ireland, the storage of firearms in the possession of persons under the age of 18, the recording and retention of certain information relating to firearms, and requirements relating to the recording by firearms dealers of the markings on firearms and their essential component parts through amendments to the Firearms (Northern Ireland) Order 2004.

2.2 These changes are being made in order to implement the requirements of Directive (EU) 2017/853 of the European Parliament and of the Council of 17 May 2017 amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons.

2.3 On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

3.1 None.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

3.2 As the instrument is subject to negative resolution procedure, there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

**4. Extent and Territorial Application**

4.1 The territorial extent of this instrument is England and Wales, Scotland and Northern Ireland in respect of the provisions relating to the deactivated firearms and Northern

Ireland only, in respect of the amendments to the Firearms (Northern Ireland) Order 2004.

## **5. European Convention on Human Rights**

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **6. Legislative Context**

- 6.1 This instrument is made under section 2(2) of the European Communities Act 1972 in order to implement amendments to Council Directive 91/477/EEC (“the 1991 Directive”) made by Directive (EU) 2017/853 (“the 2017 Directive”).
- 6.2 For the purposes of the 1991 Directive, firearms are classified as either prohibited firearms (category A); firearms subject to authorisation (category B); or firearms subject to declaration (category C). There is not a direct read across to UK law where, generally speaking, firearms are either prohibited (by section 5 of the Firearms Act 1968) or subject to authorisation (sections 1 and 2 of the 1968 Act). Firearms previously listed in the 1991 Directive as being subject to declaration have in fact been subject to the stricter classification of authorization under Category B and in accordance with the 1991 Directive, deactivated weapons were not classified as firearms under UK law and are not, therefore, subject to certificate control.
- 6.3 This instrument implements Article 8 of the 1991 Directive in respect of the United Kingdom. Article 8 makes firearms classified in Category C in Part II of Annex I to the 1991 Directive subject to declaration to a national authority. By virtue of Article 1(19) of the 2017 Directive, amending Part II of Annex I, deactivated firearms are now classified as Category C firearms. A deactivated firearm is defined as a firearm which has been rendered permanently unfit for use by deactivation in accordance with prescribed technical standards which ensure that all essential components of the firearm in question have been rendered permanently inoperable and incapable of removal, replacement or modification in a manner that would permit the firearm to be reactivated in any way. This instrument ensures such firearms are declared in accordance with Article 8 of the 1991 Directive. In relation to England and Wales and Scotland the appropriate national authority will be the Secretary of State and in Northern Ireland it will be the Department of Justice in Northern Ireland.
- 6.4 Deactivated firearms are not currently licensable and there are therefore no records kept of how many are in circulation in the UK. The new arrangements will in any event only apply to firearms which have been deactivated in accordance with the technical specifications drawn up by the EU in order to set common standards across the EU which would render deactivated weapons irreversibly inoperable. These came into effect on 8 April 2016 and were subsequently updated on 28 June 2018 although the initial requirement is only to declare those acquired after 14 September 2018.
- 6.5 This instrument also makes amendments to the Firearms (Northern Ireland) Order 2004 in order to implement amendments made by the 2017 Directive to Articles 4 and 5 of the 1991 Directive. The amendments to Article 4 extend the requirements in the 1991 Directive relating to the marking of firearms and their component parts and amend the particulars to be recorded relating to firearms and the manner by which a record must be kept.

- 6.6 The amendment made to Article 5, which restricts the acquisition and possession of firearms by persons under the age of 18 unless responsibility for the firearm's secure storage is assumed by a parent or an adult who holds a valid firearm certificate, is also implemented through this instrument. Under 18s are not allowed by law to purchase firearms but they are allowed to possess them in certain circumstances as set out in the Firearms Acts. The change being made will marginally strengthen the controls by enshrining in the rules the current general practice whereby parents/responsible adults take responsibility for storing the firearm when not in use.
- 6.7 The amendments to Articles 4 and 5 of the 1991 Directive are implemented in respect of England and Wales and Scotland by the Firearms (Amendment) (No.2) Rules 2019.

## **7. Policy background**

### *What is being done and why?*

- 7.1 The changes being made through these Regulations in respect of deactivated firearms and amendments to the Firearms (Northern Ireland) Order 2004 are required for the purposes of implementing the 2017 Directive. The requirements about marking firearms and their components in Northern Ireland are the same as for the rest of the UK where they have been implemented through changes to the Firearms Rules 1988 (see: <http://www.legislation.gov.uk/id/uksi/2019/1419>). However, changes are also required to the Firearms (Northern Ireland) Order 2004 to implement these changes in Northern Ireland but in the absence of a Northern Ireland Executive it was agreed that the provisions should be made through the Westminster Parliament.
- 7.2 This instrument implements the changes required in respect of the notification to a competent authority of deactivated firearms arising from the 2017 Directive in the United Kingdom. It also makes other changes necessary in Northern Ireland arising from the requirements of the 2017 Directive. These latter changes are being made in England, Wales and Scotland through the Firearms (Amendment) (No. 2) Rules 2019, which make the necessary changes to the Firearms Rules 1998.
- 7.3 The existing controls on firearms in the United Kingdom are strict and the United Kingdom is mostly compliant with the amendments made by the 2017 Directive through existing legislation and administrative practices.
- 7.4 The measures that are now being implemented through these Regulations have not been implemented before now while the Government has been exploring the full extent of the measures needed for implementation when measured against the extensive nature of our existing controls on firearms and the need to avoid imposing any unnecessary burdens on the police who do not expect to make widespread use of information about the ownership of deactivated firearms.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

- 9.1 There are currently no plans to consolidate the relevant legislation.

## **10. Consultation outcome**

- 10.1 A formal consultation has not been carried out in relation to this instrument which gives effect to the United Kingdom's legal obligations arising from EU legislation, although there has been informal discussions with relevant parties who will be affected by these changes.

## **11. Guidance**

- 11.1 Guidance on the process for notifying a deactivated firearm will be included as part of the firearms pages on gov.uk before this instrument comes into force.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

## **13. Regulating small business**

- 13.1 The legislation applies to activities that are undertaken by small businesses.

## **14. Monitoring & review**

- 14.1 The Regulations do not include a statutory review clause.

## **15. Contact**

- 15.1 Graham Widdecombe at the Home Office Telephone: 0207 035 1792 or email: [graham.widdecombe@homeoffice.gov.uk](mailto:graham.widdecombe@homeoffice.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Rebecca Egan and Alice Reynolds, Heads of Serious Violence Unit at the Home Office can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Kit Malthouse MP, Minister for Crime, Policing and the Fire Service at the Home Office, can confirm that this Explanatory Memorandum meets the required standard.