

ANTI-SOCIAL BEHAVIOUR BILL

AMENDMENTS TO FIREARMS LEGISLATION AIMED AT REDUCING MISUSE OF AIR WEAPONS AND IMITATION WEAPONS REGULATORY IMPACT ASSESSMENT

TITLE

- 1 Proposed changes and amendments to Firearms legislation aimed at reducing offences involving the misuse of air weapons and imitation weapons.

PURPOSE AND INTENDED EFFECT OF THE MEASURE

Issue

- 2 Although most air weapon and replica firearm owners use their guns safely and responsibly, the Government recognises that there are others who choose to use them in a wholly irresponsible and dangerous manner. The misuse of air weapons in 2001/02 led to two homicides, 164 serious injuries and 1724 slight injuries. There were a further 9859 crimes involving air weapons where there were no injuries. These figures equate to a 21% rise on the previous year. The Government is also aware that imitation weapons can be used in crime. In offences where a firearm (excluding air weapons) was used the weapon is discharged in just 20-25% of all cases. This can lead to the suspicion that many of these cases involve the use of imitation weapons. Furthermore we are aware that young people fooling around with imitation weapons such as air soft (commonly called BB guns) can lead to armed response vehicles being despatched to the scene and possible tragedy ensuing.

Objective

- 3 The objective of the proposed legislative changes is to control and reduce the anti-social misuse of air weapons and imitation firearms.
- 4 This will be achieved by the introduction of an arrestable offence in the Anti-social Behaviour Bill relating to the possession of an air weapon in a public place without lawful authority or reasonable excuse with a similar offence in respect of imitation weapons. We also feel it would be correct to increase to 17 the age at which a person can acquire an air weapon and to tighten up when it can be used without adult supervision.

Risk Assessment

- 5 The misuse of air weapons is a growing problem. While the increase in the crime statistics was only 1% in 2000/01, there had been an increase of 30% in 1999/2000. Statistics for 2001/02 show a rise of 21%. This involves approximately 170-180 serious injuries per annum and 1800-2000 slight injuries. The proposed regulations are designed to reduce this level of crime and injury and to increase public safety. Evidence suggests that a large part of the overall problem is caused by young people misusing the air weapons in their possession, committing minor criminal damage. The new regulations aim to prevent young people under the age of 17 from using air weapons while unsupervised (at

present anyone over 14 can use an air weapon unsupervised) and to make it an arrestable offence to be in possession of an air weapon in a public place without lawful authority or reasonable excuse.

- 6 Equally problematic is the issue of imitation firearms. The police are faced with great difficulties with these weapons. On the one hand they are regularly used in the commission of crime (some estimates give the figure of 70-80% of all firearms offences (excluding air weapons)). Unfortunately unless the police can catch an offender during the commission of a crime they are powerless to stop such offending. On the other hand the police are often called out to deal with people brandishing what turn out to be imitation weapons in the street. As these items can be near perfect copies they have to deal with these situations as if a genuine firearm is involved and the presence of an Armed Response Vehicle is generally required with occasionally fatal consequences. In July 2001 armed officers in Brixton shot a male dead after he threatened members of the public with what turned out to be an imitation firearm.

OPTIONS

- 7 At present there are statutory regulations covering the age limits relating to air weapons and to the use of imitation weapons in criminal offences. At present it is an offence for anyone under 17 to purchase or hire an air weapon, or for anyone to sell such a weapon to anyone under 17. It is also an offence for anyone to make a gift of an air weapon to anyone under 14. No-one under 14 may have an air weapon with him unless he is under the supervision of a person over the age of 21, or he is engaged in target shooting as a member of an approved rifle club or he is using the weapon at a shooting gallery. It is an offence for anyone under seventeen to possess an air weapon in a public place unless he is engaged in target shooting as a member of an approved rifle club or at a miniature rifle range or it is in a secure gun cover. It is, however, legal for a young person between the ages of 14 and 17 to use the weapon unsupervised.
- 8 Three options have been considered for dealing with the issues:
 - Option 1: do nothing and continue to rely on current legislation. The risk to this option is that it does not help the police curb the misuse of air weapons and imitation firearms. At present the police are effectively powerless to deal with these problems unless they apprehend an offender during the course of mischief.
 - Option 2: Legislate to make air weapons subject to a certification or registration scheme, and to ban imitation weapons. A system of certification similar to that already governing section 1 and 2 firearms would be extremely bureaucratic and difficult to manage. It would also, due to their dimensions, make most air pistols prohibited weapons and involve a very costly compensation scheme. Estimates of air weapon ownership in this country range from 4 million up to 7 million. Even at only £50 per weapon the compensation bill could reach £350 million without touching on the costs relating to manufacturers and small businesses. The police feel a registration scheme, similar to that of the old dog licence, would be bureaucratic and expensive (some £14 million per annum) and would involve little, if any, checking as to the fitness of each person to possess an air weapon. To ban imitation firearms would again involve a costly compensation process, although we cannot estimate how many imitations this would cover, as any definition of an imitation is widely drawn. It would also be a disproportionate

response to the perceived problem. Many people collect or use imitation weapons for a variety of reasons ranging from battle re-enactment to ornaments for public house walls.

- Option 3: Introduce the proposed legislation. Current evidence would suggest that the misuse of air weapons is, in the main, committed by young people. It seems appropriate therefore not to allow people between the ages of 14 and 17 to use an air weapon unless supervised by a person over the age of 21. Furthermore as the police currently have to catch a person in the act of misusing his/her air weapon in order to charge them it would seem appropriate to create an offence to deal with this. There is no justification for carrying an air weapon in public unless one has a reasonable excuse. As a result the Government is proposing the introduction of an offence relating to the possession of an air weapon in a public place without lawful authority or reasonable excuse. There is currently an offence of carrying a loaded air weapon in a public place but given the ease with which air gun pellets can be purchased (unlike cartridges they do not have to be purchased on a firearms certificate) this is an ineffective offence. This offence will, however, be maintained, as it is possible that someone will have a reasonable excuse for having an air weapon in a public place but no excuse for having it loaded. The new offence will allow police officers to arrest anyone in possession of an air weapon in public unless they are able to show that they have good reason for having the weapon. A similar situation will exist with imitation weapons. At present, unless the police can prove that someone with such a weapon intends to cause mischief or commit a crime there is little they can do. The new offence of possession of an imitation firearm in a public place with reasonable excuse should not interfere unduly with legitimate usage of these firearms but will allow the police to deal with those who were either misusing them or carrying them in suspicious circumstances.

- 9 The Government is in favour of option 3 as it is proportionate to the problem faced. It would be unreasonable to prohibit the possession of air weapons and imitation firearms from the millions of people who own and use them safely and properly. Voluntary/charity organisations would be able to continue to operate rifle ranges and shooting galleries at Country Fairs and the like under the existing exemptions in existing Firearms legislation.

COSTS AND BENEFITS

Business sectors affected

- 10 The affected business sectors would include the manufacturers of air weapons, importers, registered firearms dealers, sporting goods shops, hardware and ironmonger shops, mail order companies, and other retail outlets.

Assumptions

- 11 The following assumptions have been made:
- 11.1 The new offence of possessing of airguns/imitation guns in a public place without reasonable excuse is likely to have a very minimal effect on the sale of such weapons. Sale of these items will not be banned.
 - 11.2 200,000 new air weapons are sold every year. These figures were provided by the Gun Trade Association (GTA) and cover the year 2001.

The trade in second-hand air weapons is not quantifiable but the GTA estimates 80% of this trade is carried out privately.

- 11.3 10% of new purchases are made by adults, usually parents, for the use of 14 to 17 year olds (20,000).
- 11.4 14 to 17 year olds will no longer be able to own an air weapon but will be able to use an air weapon owned by adults if supervised. We estimate that purchases of air weapons intended for use of 14 to 17 year olds will remain mostly unchanged with a fall off in business of only 2% of overall trade (4,000 weapons).
- 11.5 Average cost of air weapons sold for use by 14 to 17 year olds is £125 bearing in mind that such guns are likely to be at the lower end of the market. (It should be noted, however, that many air weapons can cost several thousand pounds.) This cost would include a sighting scope for the weapon. This estimate has been provided by the GTA.

Costs

- 12 There are no costs to business in pursuing option 1.
- 13 Option 2 would result in massive costs to business.
 - 13.1 Part prohibition (all air pistols would be likely to become prohibited) estimated at 50% of total sales of new air weapons which would range from £12.5m (100,000 x £125) for standard entry weapons to £100m (100,000 x £1000) for the more expensive weapons.
 - 13.2 Loss of business from need for registration estimated at 10% which would range from £2.5m (20,000 x £125) to £20m (20,000 x £1000).
 - 13.3 This would mean a total loss to business of between £15m to £120m.
- 14 Option 3 would result in a loss of business on new purchases for the use of 14 to 17 year olds of £600,000 (4,000 x £125).
- 15 There is no discernible costs issue here as we believe the proposals will create no greater burden than already exists. Neither air weapons nor imitation firearms will be banned and will still be available for sale. We have undertaken a consultation process and the Gun Trade Association (GTA), the main trade organisation for firearms dealers, who have been fully consulted about proposed legislative changes, broadly supports the initiatives. Firearms dealers are small businesses and will not, we believe, be unduly affected by these changes, as it is already illegal to purchase an air weapon under the age of 17. The aim of the proposals is simply to ensure that those people who wish to possess air weapons and imitation weapons use them correctly. The proposed offence relating to imitation weapons was recommended by the Firearms Consultative Committee, the independent body which advises the Government on firearms issues, after being proposed by the British Association of Shooting and Conservation and supported by the Association of Chief Police Officers. It would seem that all sides of the firearms argument are united and all wish to see the problems associated with the misuse of air weapons and imitation firearms alleviated.

Public costs

16 In 2001-02 there were 173 convictions of young people under the age of 17 in connection with air weapon offences. The caution rate for these offences is approximately 75%. As a result 44 people appeared in court. It is likely that the new offence will mean more arrests but its deterrent effect should keep these to a minimum. We are therefore making an estimate of 250 arrests. We will make an assumption (based on 2001-02's records) that 75% will accept a caution. This will mean that 70 will proceed to a court hearing. These cases would be heard at Magistrates and Youth Courts. The cost for this has been assessed at £173.25 per case. Lord Chancellor's Department (LCD) have assessed the Legal Aid costs for arrests and prosecutions to be £47,190.

- Court costs = 70 cases x £173.25 = £12,127.50 p.a.
- Police costs = 250 cases x £32 (2 hours at £16 per hour) = £8000 p.a.
- CPS costs = 250 cases x £366 = £25,620.
- Legal Aid costs = £47,190.
- **Total costs = £92,937.50.**
- **Rounded Up = £93,000.**

17 With regard to the offences relating to possession of an air weapon or an imitation air weapon in a public place we have received information from the police that shows there were 11,000 deployments of Armed Response Vehicles (ARV) during 2000-01. These figures cover only English and Welsh forces. We have therefore estimated a further 2000 call-outs for Scottish forces. We have worked on 70% of these call-outs being for air weapons and imitation weapons. This equates to 9,100 call-outs. We estimate that 50% of these cases would immediately show the suspect to have a clear reasonable excuse for possession of the weapon. Of the remaining 4550 many would not be charged or would be charged with other, more serious offences and others would be able to prove a reasonable excuse in due course. We would expect @ 1000 cases to result in charges. We are likely to see the same caution rate of 75%. The cost for each case in a Magistrates court is £74.25 and LCD estimate Legal Aid costs for arrests/prosecutions and appeals to amount to £192,050. We assume 32 appeals.

- Police costs: 1000 cases x £32 = £32,000.
- Court costs: LCD estimate £16,600.
- Legal Aid costs: £192,050.
- Appeal Costs: not identified.
- CPS costs: 250 cases x £366 = £25,620.
- **Total Costs = £266,270.**

18 We expect there to be some initial training costs for the police to enable them to enact this legislation, but this should be offset by reduced costs in investigating the more serious incidents of criminal damage and injury caused by the misuse of air weapons. Unfortunately it is impossible to quantify any gains or losses in this area. The same situation also applies to downstream costs such as court cases. There will be cases that relate to this new offence but they are likely to be less costly than those cases involving actual misuse of a weapon.

Benefits

19 Option 1 provides no benefit to society.

- 20 Option 2 would cut the misuse of air weapons and imitation weapons down severely but is a disproportionate response to the problem faced. It would deprive businesses of their livelihood and air weapon shooters and collectors of imitation weapons of their hobbies.
- 21 Option 3 is aimed at the problem itself. There is minimum effect on business, and no-one with a reasonable or legitimate excuse for possession of the items will need to worry about continuing their hobby.
- 22 There is likely to be a cost benefit relating to the call outs for police Armed Response Vehicles (ARV). In one force alone, in 2001, out of 500 ARV deployments 367 were to suspected air weapon offences. The costs for an ARV crew include approximately £5000 for equipment, £20000 for a suitable car, £3500 for an initial training course with similar costs for refresher training. It is hoped that the deterrent effect of the new legislation could reduce the number of calls for ARV support as it is intended to reflect the seriousness in which society holds such behaviour.

SMALL FIRMS IMPACT TEST

- 23 200,000 new air weapons are sold every year. We estimate a very small impact on this market. We have no estimate for the number of imitation weapons sold. By their very definition imitation weapons range from sophisticated metal weapons with full moving parts to toys. However the vast majority are used for legitimate purposes and we see little, if any, impact on this industry.
- 24 The Small Business Service has commented "We have seen no information that justifies this increase in the age limit. However, since the impact on the trade is likely to be small we will not take issue. We would expect this change to be phased in over a period of three years in order that children aged fifteen who have already acquired air guns will not have to forfeit them or identify adults to accompany them."

COMPETITION ASSESSMENT

- 25 A Competition filter has been completed and is attached at Annex A. This shows that the proposed option is unlikely to affect the competitive process.

ENFORCEMENT AND SANCTIONS

- 26 Enforcement of the new offences will be the responsibility of police forces.

CONSULTATION

- 27 The Home Office has been in consultation with representatives of the Gun Trade Association, the police and the Firearms Consultative Committee.

MONITORING AND REVIEW

- 28 We will assess the effectiveness of these provisions on a yearly basis by review of the British Crime Statistics.

SUMMARY AND RECOMMENDATION

29 The Government is in favour of option 3. This will be achieved by targeting those people who chose to misuse air weapons and imitations rather than imposing impositions on all owners of these items.

30 The cost to businesses is assessed at £600,000.

MINISTERIAL DECLARATION

31 I have read the Regulatory Impact Assessment and am satisfied that the benefits justify the costs.

Signed by the responsible Minister

Bob Ainsworth

Date 26 March 2003

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COMPETITION FILTER

The competition filter	
Question	Answer yes or no
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
Q4: Would the costs of the regulation affect some firms substantially more than others?	No
Q5: Is the regulation likely to affect the market structure, changing the number or size of firms?	No
Q6: Would the regulation lead to higher set-up costs for new or potential firms that existing firms do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential firms that existing firms do not have to meet?	No
Q8: Is the market characterised by rapid technological change?	No
Q9: Would the regulation restrict the ability of firms to choose the price, quality, range or location of their products?	No