

DRAFT

REGULATORY IMPACT ASSESSMENT

1. Title of proposal

VIOLENT CRIME REDUCTION BILL - Amendment to firearms legislation to introduce tougher manufacturing standards to ensure that imitation firearms cannot be converted to fire live ammunition.

2. Purpose and intended effect

Objective

- 2.1 To tackle the problem of criminals converting imitation firearms to fire live ammunition.

Background

- 2.2 Imitation firearms which are readily convertible to discharge a missile have been regarded as firearms subject to firearm certificate control since 1936. The law was clarified and extended by the Firearms Act 1982 which provides that an imitation firearm should be treated as a real firearm in law if:
- (i) it has the appearance of being a firearm to which section 1 of the 1968 Act (firearms requiring a firearm certificate) applies; and
 - (ii) it is so constructed or adapted as to be readily convertible into a firearm to which that section applies.
- 2.3 An ad hoc model firearms examination (MFE) scheme was set up to give guidance on the measures which might be taken. This envisaged that a sample of any type of imitation firearm to be imported would be submitted to the Forensic Science Service (FSS) for evaluation, and stocks would be imported only after an examination had indicated that they were not readily convertible.
- 2.4 The standard used by the FSS was that set out in section 1(6) of the 1982 Act, that the imitations '(a) can be so converted without any special skill on the part of the person converting it in the adaptation and construction of firearms of any description; and (b) the work involved in converting it does not require equipment or tools other than such as are in common use by persons carrying out works of construction and maintenance in their homes.' This last part of the definition has been overtaken to some extent by the ready availability of tools such as tungsten carbide tipped drills and a greater range of DIY power tools.

Rationale for government intervention

- 2.5 The system has run into difficulty in recent years, and a number of imitations have been found to be readily convertible. In the last 2 years the Forensic Science Service has examined a total of 819 converted weapons. The reasons for the failure include the facts that the system was not mandatory, and that there were no clear indicators about whether imitations were readily convertible. Manufacturers make imitation firearms to the very different requirements of different markets. Imitations that fully meet Italian or German requirements will be unacceptable in this country, and the cost to manufacturers of these different specifications is quite high. There is no common European standard and imitations made to different standards are readily available throughout Europe.
- 2.6 It is not possible to make an imitation that cannot be converted by a person of real skill and knowledge. Indeed, it is not possible to prevent such a person from making a gun from scratch. Nevertheless, the Government believes it is important to tackle the problem at manufacturer and importer level though the introduction of much stricter standards. These will bear down primarily on blank firing guns which already have to withstand pressures associated with blank ammunition and which are the source of most recent conversions. They will also address any other imitations which have sufficient structural integrity to form the basis of a conversion.

3. Consultation

- 3.1 The Home Office issued in May 2004 a consultation paper entitled *Controls on Firearms* which sought views on improving the existing laws relating to firearms. The paper drew attention to the fact that imitations have proved attractive to criminals and respondents were asked to say whether the law on readily convertible imitations needed to be up-dated. Many organisations noted in their replies that conversions used regularly in crime were European specification blank firing imports and suggested that this was where preventative measures were best concentrated by building on existing efforts to make these guns incapable of conversion.

4. Options

- 4.1 The following options have been considered

Option 1 – Do nothing

- 4.2 Although existing legislation goes some way towards meeting the problem, particularly if rigorously enforced, the ready availability of modern power tools means it is less effective than it was. Doing nothing would not help the police in their efforts to tackle the criminal misuse of firearms.

Option 2 – Make imitations subject to a certification scheme

- 4.3 Although a system of licensing or certification would mean that checks in the criminal records of people buying imitations could be made, a significant number of imitations are owned for wholly legitimate purposes. Furthermore, only a small percentage of imitations have sufficient structural integrity to form the basis for a conversion and any benefits of a licensing system would be heavily outweighed by the administrative burden and the impracticalities of enforcement.

Option 3 – Ban the sale, import and manufacture of all imitation firearms

- 4.4 It is difficult to say with any certainty how many imitation firearms there are at present. Conservative estimates, disregarding children's toys and low-level imitations, but including soft air-guns, give a total of not less than 10 million. These include re-creations of muzzle-loading firearms made to standards close to the original antique firearm. They also include sturdy and substantial copies of modern firearms, including pistols and revolvers and automatic weapons, some of which may be capable of firing blank cartridges. And they include soft air-guns made of plastic, which closely resemble real firearms but have a short survival life. Most children's toy guns fit the definition of an imitation firearm.
- 4.5 Imitation firearms are owned and used for a variety of purposes. Many children's toy guns fit the definition of an imitation firearm. Imitation firearms are used in the theatrical and film industries to avoid the complications of using real firearms. They are also extensively used by re-enactment societies, and for war games and skirmishes. Moreover, a large number form part of collections of firearms or fill gaps in existing collections.
- 4.6 The Government is proposing a ban on the sale, import and manufacture of realistic imitations but it will still be necessary to have exemptions for legitimate use and it would be important to ensure that strict standards to prevent conversion were applied.

Option 4 – A total ban on the possession imitation firearms.

- 4.7 A total ban on the possession of imitations would require a mechanism for collecting the 10 million or more items currently in circulation; also the payment of a substantial sum (£3-500m) by way of compensation which of itself would require a significant administrative effort.

Option 5 – to introduce tougher manufacturing standards to ensure that imitation firearms cannot be converted

- 4.8 The legislation would be amended to allow specifications to be drawn up which would have to be met before imitation firearms could be imported. For blank firing guns and those imitations of robust construction, this is likely to require the incorporation of a hardened inclusion which will prevent conversion. Provision would be for an imitation to be deemed not readily convertible if it can be shown to be of a type certified by the Proof Houses or other approved authority or conforming to the specifications.

5. Costs and benefits

Sectors and groups affected

- 5.1 The conversion of imitation firearms to fire live ammunition affects the following sectors and groups:
- communities – which suffer from crimes committed with converted imitations,

- police – who have to deal with offences and to deploy armed response teams. Also the Crown Prosecution Service, courts, prisons and probation service who have to deal with offenders;
- people who use imitation firearms responsibly;
- businesses which sell imitations.

Benefits

- 5.2 There would be no benefit to communities and the police from option 1. Although existing legislation provides a degree of control, it is not as clear as it might be and has been overtaken to some extent by the ready availability of modern tools. Option 2 would reduce the number of irresponsible people able to obtain imitations legally but would impose a significant administrative burden on the police. Options 3 and 4 would significantly reduce the number of readily convertible imitations finding their way onto the market but Option 4 would do so at the expense of a ban on the possession of the majority of imitations which cannot be converted. Option 5 would benefit both the police and communities by tackling the problem of convertibility at source and on a selective basis.

Costs

- 5.3. The cost of option 1 can be measured in terms of the deaths, injury and fear caused by gun crime committed with ammunition assembled by criminals and criminal armourers.
- 5.4 Option 2 would be very costly to the police in terms of setting up and administering an extended licensing regime; to the vast majority of legitimate users who would have to comply with the licensing regime (a firearm certificate currently costs £50); and to business which would see a significant decrease in the number of imitations and toy guns sold.
- 5.5 Options 3 and 4 would mean additional costs to the police and prosecution authorities in pursuing offenders and would also have a significant effect on sales.
- 5.6 Option 5 would involve some cost to business in terms of the additional cost of ensuring that imitations meet the tougher specifications and cannot be converted.

6. Small Firms Impact Test

The estimated sale of blank firers and soft air guns is 350,000 per annum. If realistic toys are included that number could probably be at least doubled. Any ban on the sale of imitation weapons would affect a number of companies in the supply chain from importers through to distribution and sale.

7. Competition Assessment

7.1 There are no competition issues.

8. Enforcement, sanctions and monitoring

8.1 Enforcement would be a matter for the police and for HM Customs.

9. Implementation and delivery plan

9.1 The necessary provisions are included in the Violent Crime Reduction Bill. The Home Office will work closely with the police, the gun trade and forensic experts in devising detailed standards and in disseminating them.

10. Post implementation review

10.1 The Home Office will review the effectiveness of the new provisions by monitoring with the police and forensic experts the future rates of conversion of imitation firearms.

11. Summary and recommendation

11.1 Whether or not other measures are also introduced to bear down on the sale, import and manufacture of realistic imitations, measures will be needed to ensure that any which are sold cannot be converted to fire live ammunition and the introduction of tougher standards as in option 5 are therefore required.