

DRAFT

REGULATORY IMPACT ASSESSMENT

1. Title of proposal

VIOLENT CRIME REDUCTION BILL - Amendment to firearms legislation to tighten controls on the misuse of air weapons.

2. Purpose and intended effect

Objectives

2.1 To safeguard the public against the misuse of air weapons, including the indiscriminate and reckless firing of air guns from private property.

Background

2.2 Although air weapons are not subject to licensing, they are firearms and the law contains controls to tackle their misuse. For example, it is an offence for someone under 17 to purchase an air weapon and it is an offence for anyone to have an air weapon in public without reasonable excuse. One aspect of air weapon misuse is firing across the boundary of private premises, thereby endangering others. There are specific controls to counter such misuse:

- it is an offence for a person under 17 who is supervised by a person aged 21 or over to fire an air weapon beyond the boundary of premises (section 23(1)(a) of the Firearms Act 1968)
- it is an offence for a person aged 14 – 16 who is shooting unsupervised on private premises with the occupier's consent to fire an air weapon beyond those premises (section 23(4) of the 1968 Act).

2.3 Other offences can also come into play, depending on the circumstances:

- it is an offence to discharge a firearm within fifty feet of the centre of a highway if in consequence a user of the highway is injured, interrupted or endangered (section 161 of the Highways Act 1980)
- it is an offence to wantonly discharge any firearm in the street to the obstruction, annoyance or danger of residents or passengers (section 28 of the Town Police Clauses Act 1847)
- possession of a firearm with intent to endanger life (section 16 of the Firearms Act 1968)
- possession of a firearm with intent to cause any person to believe that unlawful violence will be used against him or another person (section 16A of the 1968 Act)
- having a firearm with intent to commit an indictable offence (section 18 of the 1968 Act)
- trespass with a firearm (section 20 of the 1968 Act)

- using threatening, abusive, insulting or disorderly behaviour within the hearing or sight of a person likely to be caused harassment, alarm or distress (section 5 of the Public Order Act 1986)
- maliciously wounding or causing any grievous bodily harm (section 18 of the Offences Against the Person Act 1861)
- assaulting a person occasioning actual bodily harm (section 47 of the 1861 Act).

2.4 There are relatively few prosecutions for the specific offences relating to firing an air weapon beyond the boundary of premises. Provisional data indicates that there were five prosecutions in 2004. The offence under section 23(4) of the 1968 Act was introduced only in January 2004 and statistics are not available but it is likely that the figures are similarly low.

2.5 There are many other forms of misuse involving air weapons and much of it is carried out by young people.

Rationale for government intervention

2.6 This extensive range of offences is normally sufficient to deal with incidents where an air weapon is fired beyond the boundary of premises. However, the Government was made aware of an incident last year which highlighted a gap in the existing controls. In that case, a woman was shot with an air weapon while standing on the balcony of her own property. Shots were fired by two adult men from a flat opposite. Although both men admitted firing the guns, the police could not prove intent, nor were they able to prove which man fired the crucial shot. In the event, no charges could be laid. The specific offences of firing an air weapon beyond the boundary of premises relate only to young people and therefore did not apply.

2.7 The Government believes it is important to close this loophole, thereby ensuring that people who misuse air weapons in this way are brought to account for their actions and punished appropriately. The Government believes it is also important to consider further ways to deter young people from misusing air weapons more generally.

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. Although the paper did not specifically mention the issue of firing air weapons beyond the boundary of premises, it sought views on all aspects of firearms controls and included a section on air weapons. A total of 4,371 responses were received. Of those respondents who commented on air weapons, the vast majority were in favour of tackling misuse but did not feel this should be achieved through further restrictions on possession or sale.

4. Options

4.1 The following options have been considered for achieving the objective of safeguarding the public against the misuse of air weapons, and specifically against the indiscriminate and reckless firing of air guns from private property.

Option 1 - Do nothing

4.2 It is thought that incidents where an air weapon is fired beyond the boundary of premises are infrequent. There are very few prosecutions for the specific offences under firearms law. Where firing an air weapon beyond the boundary of premises has

resulted in injury or damage to property, it is likely that prosecutions have been under the more general offences set out above. The Government is aware of only one case, involving fairly unusual circumstances, where the existing range of controls has proved ineffective. Leaving the law as it is would therefore affect very few cases. However, air weapon misuse is a safety concern of many people and it is not right that offenders can benefit from a loophole in the law to escape punishment. Doing nothing would not deter more general air weapon misuse by young people.

Option 2 – Make it an offence for anyone of any age to fire an air weapon beyond the boundary of premises; and increase the age limit for possessing an air weapon

4.3 The existing offences of firing an air weapon beyond the boundary of premises are limited to young people. This is because they were introduced as additional safeguards where young people benefited from an exception to the general prohibition on under 17s carrying air weapons. However, there is no logical reason why a person aged 17 or over should not also commit an offence if they misused an air weapon in the same way. It would not criminalise any legitimate activity and would ensure that no-one who endangered others by firing an air weapon beyond the boundary of premises was able to escape punishment.

4.4 The age limit for possessing an air weapon without adult supervision is currently 17. Increasing the age limit to 18 would further restrict young people's access to air weapons and help prevent misuse from occurring. It would align the age limit with that proposed for knives.

Option 3 - Licence all air weapons

4.5 It has often been suggested that air weapons should be licensed so that owners can be assessed as to their suitability. It is felt this would prevent much of the misuse that occurs with air weapons. However, there are an estimated 4 - 7 million air weapons in this country, the vast majority of which are used responsibly. Requiring them all to be licensed would be very costly and bureaucratic, and would be a disproportionate response to the small number of cases where it is not possible to prosecute for firing an air weapon beyond the boundary of premises. As noted above, the Government is aware of only one case where the existing range of offences proved ineffective.

5. Costs and Benefits

Sectors and groups affected

5.1 Air weapon misuse affects the following sectors and groups:

- communities - which suffer nuisance, fear and injury
- public sector - (police, Crown Prosecution Service, courts, prisons and probation services) which deals with offenders
- shooting community – which uses air weapons responsibly
- business – which sells air weapons.

5.2 The available statistics suggest that firing an air weapon beyond the boundary of premises is not a frequent occurrence. This proposal is about the small number of cases where unusual circumstances prevent the police from prosecuting the offenders. There is no evidence that the victims or offenders in this small number of

cases are more or less likely to be from any particular racial group. The Government therefore considers that this proposal will not have any race equality impacts.

Benefits

5.3 There would be no benefit to communities from option 1, which would allow offenders who were not covered by the existing offences to continue to escape prosecution. Communities would benefit from option 2, which would strengthen the existing law by allowing for prosecution of all offenders. It would also prevent some misuse by restricting young people's access to air weapons. Option 3 would provide communities with the most benefit as a licensing process would prevent misuse from occurring by stopping unsuitable people from possessing air weapons.

5.4 The police would benefit most from option 2, which would allow them to take action against offenders without the bureaucracy that would be involved with a licensing regime under option 3.

Costs

5.5 The cost of option 1 can be measured in the nuisance, fear and injury experienced by communities where air weapon misuse is allowed to go unchecked.

5.6 Option 2 would mean some additional costs to the public sector in prosecuting and punishing offenders. However, it is not expected that legitimate shooters would be criminalised. Young shooters would still be able to shoot at clubs, miniature shooting galleries and on private land with the owner's permission. Responsible shooters do not shoot beyond the boundary of premises and always ensure there is a suitable backstop.

5.7 Option 3 would be very costly to the police, who would be the licensing authority. Each police force has a small licensing department to process applications for firearms certificates, shotgun certificates and various other permissions under firearms law. In 2004, there were 342,213 firearms and 1,372,712 shotguns held on certificate. As noted above, there is an estimated 4-7 million air weapons in circulation and licensing them could increase the police's workload five-fold. It would also be costly to legitimate shooters – who make up the vast majority of air weapon users – who would have to comply with a licensing regime. Using the firearm certificate as an example, the grant of a new certificate costs £50 and a 5-yearly renewal costs £40. Business would be likely to suffer losses through a decrease in sales of air weapons, as people were deterred from buying by the cost of licensing.

6. Small Firms Impact Test

6.1 Option 1 would not have any impact on small firms. Option 2 would affect air weapon sales to a limited extent. Option 3 would likely see sales decrease significantly. We understand that the majority of air weapons are sold through small dealers and tackle shops, so small firms would be affected disproportionately.

7. Competition Assessment

7.1 None of the options raise any competition issues.

8. Enforcement, sanctions and monitoring

8.1 The police would enforce option 2. The maximum penalty for the new offence would be in line with the existing offences of firing an air weapon beyond the boundary of premises, ie a level 3 fine (£1,000). The police would administer and

enforce option 3 as part of their existing firearms licensing function and the penalties for non-compliance would reflect those relating to other firearms.

9. Implementation and delivery plan

9.1 The necessary legislative provisions are included in the Violent Crime Reduction Bill. The Home Office will notify the affected sectors and groups of the new provisions before they come into force.

10. Post-implementation review

10.1 The Home Office will review the effectiveness of the new provisions by monitoring statistics for air weapon misuse and through feedback from the sectors and groups affected.

11. Summary and Recommendation

Summary costs and benefits table		
Option	Total benefit per annum: economic, environmental, social	Total cost per annum: economic, environmental, social, policy and administrative
1	None	Continued level of misuse of air weapons
2	Prosecution of all offenders who shoot air weapons beyond the boundary of premises. Reduced misuse of air weapons through restricting access by young people.	Marginal additional costs from small number of extra prosecutions.
3	Prevention of most misuse of air weapons.	Five-fold increase in police workload. Licence application and renewal fees for air weapon owners. Loss of sales of air weapons.

11.1 The recommended option is option 2. It will close the loophole in the offences concerned with shooting air weapons beyond the boundary of premises, and will tackle the misuse of air weapons by young people at source.