EXPLANATORY MEMORANDUM TO

THE ANTIQUE FIREARMS (AMENDMENT) REGULATIONS 2021

2021 No. 1381

1. Introduction

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

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument corrects an error in the Antique Firearms Regulations 2021 (S.I. 2021/215) (the 2021 Regulations). The 2021 Regulations specify types of propulsion system, types of cartridge and a date of manufacture, which make a firearm eligible to be regarded as antique and therefore able to be possessed without the need for a firearm certificate. This instrument amends the list of cartridges in the Schedule to the 2021 Regulations to include vintage rifles, punt guns and shot guns with bores greater than 10. It also makes minor corrections to the descriptions of some other types of cartridge in the Schedule.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 As these Regulations correct the 2021 Regulations, the free issue procedure has been applied, after consultation with the Statutory Instrument Registrar.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales and Scotland.

4.2 The territorial application of this instrument is England, Wales and Scotland.

5. European Convention on Human Rights

5.1 The Minister of State for Crime and Policing, Kit Malthouse MP, has made the following statement regarding Human Rights:

"In my view the provisions of the Antique Firearms (Amendment) Regulations 2021 are compatible with the Convention rights.".

6. Legislative Context

6.1 Section 58(2) of the Firearms Act 1968 (c. 27) (the 1968 Act) exempts from most controls under that Act an antique firearm which is sold, transferred, purchased, acquired or possessed as a curiosity or ornament. This includes being able to possess such firearms without requiring a firearms certificate and to trade in them without being registered with the police as a firearms dealer. Section 58(2A) of the 1968 Act provides that a firearm is an antique for these purposes if it meets certain conditions. The Antique Firearms Regulations 2021 makes specifications as to those conditions, relating to propulsion systems, types of cartridge and date of manufacture.

6.2 Under section 58(2B) of the 1968 Act, where a firearm's chamber or (as the case may be) each of the firearm's chambers is designed for use with a cartridge specified in the Schedule to the 2021 Regulations, that firearm is eligible to be regarded as an antique firearm and, provided the other conditions (as specified in the 2021 Regulations and section 58(2) of the 1968 Act) are met, can be possessed without the need for a firearms certificate.

6.3 This instrument corrects an omission from the 2021 Regulations (see paragraph 7.2 below). It amends the Schedule to the 2021 Regulations by adding cartridges for vintage rifles, punt guns and shot guns with bores greater than 10. It also makes minor corrections to the descriptions of some other types of cartridge in the Schedule.

6.4 The Policing and Crime Act 2017 (Commencement No.11 and Transitional Provisions) Regulations 2021 (S.I. 2021/282 (C. 8)) , and section 126(4) to (7) of the 2017 Act, make transitional provisions for owners of firearms which have ceased to be exempt as antiques as a result of the 2021 Regulations. These provisions allow owners a transitional period until 22 September 2021 to licence, sell or otherwise dispose of their firearm. The Government has extended that transition period in respect of vintage rifles, punt guns and shot guns with bores greater than 10 in a separate instrument (The Policing and Crime Act 2017 (Commencement No.11 and Transitional Provisions) (Amendment) Regulations 2021 (S.I. 2021/945)), to ensure they can continue to be lawfully possessed without a firearm certificate until such time as this instrument comes into effect and corrects the omission from the 2021 Regulations.

7. Policy background

What is being done and why?

7.1 Following concerns from law enforcement about the increased use of antique firearms in crime, the Government legislated through the Policing and Crime Act 2017 (c. 3) to provide a statutory definition of 'antique firearm'. The Home Office conducted a public consultation in 2017 on the detailed aspects of the statutory definition, including what the cut-off date of manufacture should be, and on the detailed descriptions of propulsion systems and cartridges. The outcome of the consultation (Proposals for implementing legislation to define antique firearms) informed the 2021 Regulations, which make specifications as to these conditions.

7.2 This instrument corrects an omission from the 2021 Regulations. The list of cartridges in the Schedule to the 2021 Regulations was based on long-standing guidance published by the Home Office, which included cartridges for vintage rifles, punt guns and shot guns with bores greater than 10. However, this category of cartridge was inadvertently omitted from the 2021 Regulations during the drafting process. The term "bore" refers to the internal diameter of the barrel of a gun, and the bore size is based on the size of the spherical lead ball that fits the bore. The number is a reference to the number of those lead balls that would make up one pound in weight; accordingly, the lower the number, the larger the physical size of the barrel bore, and so the term "bores greater than 10" would be used in the firearms industry to mean any bore capable of accepting lead balls of a size equivalent to fewer than 10 per pound in weight.

7.3 Unless corrected, owners of firearms affected by this omission would have to apply to the police for a firearms certificate in order to retain them once the transitional

arrangements for the 2021 Regulations end, which would be contrary to the policy intention. This instrument corrects this error by amending the 2021 Regulations to add such cartridges to the Schedule, thereby ensuring that the firearms affected remain eligible to be regarded as antique and are able to be possessed without the need for a firearm certificate.

7.4 Multiple checks of the 2021 Regulations have been made, including with external experts, and no further omissions have been found. However, some typographical and other minor errors were identified within the list of cartridges in the Schedule. This instrument also corrects those minor errors.

8. European Union Withdrawal and Future Relationship

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 This instrument amends other secondary legislation. It is not intended to consolidate the legislation, but the Home Office Guide on Firearms Licensing Law will be updated to provide consolidated guidance.

10. Consultation outcome

10.1 The Home Office conducted a full public consultation in 2017 which informed the contents of the 2021 Regulations. No further public consultation has taken place in respect of this instrument.

10.2 The Home Office has consulted the Scottish Government regarding this instrument and it is content with it.

11. Guidance

11.1 A Home Office circular will be published to alert police forces, dealers, collectors and museums of the new legislation, confirming that owners of the firearms affected will not be required to licence them. The Home Office Guide on Firearms Licensing Law will be updated online and made available on the gov.uk website.

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 because there is no, or no significant, impact on business. A full Impact Assessment was published for the 2021 Regulations (Impact Assessment for the Antique Firearms Regulations) which estimated an annual cost to business of £0.5 million resulting from the whole of the Regulations. The Impact Assessment was prepared on the basis that the firearms affected by this instrument would be included in the 2021 Regulations, and therefore the impact of this instrument is reflected in that Impact Assessment.

13. Regulating small business

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

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

13.3 The basis for the final decision on what action to take to assist small businesses is that there will be no adverse impact on them as a result of the changes made by this instrument. This instrument will correct an error in the 2021 Regulations which will allow small businesses to continue trading in the firearms concerned without needing to be registered with the police as a firearms dealer.

14. Monitoring & review

14.1 The approach to monitoring this legislation is twofold: first, to establish a non-statutory group of experts which will meet annually to consider the latest developments in the criminal use of antique firearms, and secondly for the Home Office to carry out a review of the 2021 Regulations, including the amendments made by this instrument, every three years. Law enforcement and representatives of collectors and dealers will be involved in these reviews.

14.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, the Minister of State for Crime and Policing, Kit Malthouse MP, has made the following statement:

"In my view the provisions of the Antique Firearms (Amendment) Regulations 2021 will not have a significant impact on business. The Impact Assessment for the Antique Firearms Regulations 2021 estimated an annual cost to business of £0.5 million resulting from the impact of the Regulations as a whole, and this included the specific impact relating to the omitted cartridges which are now inserted by this instrument. The Government will carry out a review of the 2021 Regulations every three years, to ensure they remain relevant and effective".

15. Contact

15.1 Dennis Wilmer at the Home Office Telephone: 020 7035 1786 or email: dennis.wilmer@homeoffice.gov.uk can be contacted with any queries regarding the instrument.

15.2 Alice Reynolds and Laura Baynton, Deputy Directors for the Serious Violence Unit at the Home Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Minister of State for Crime and Policing, Kit Malthouse MP can confirm that this Explanatory Memorandum meets the required standard.