EXPLANATORY MEMORANDUM TO

THE ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014 (CONSEQUENTIAL AMENDMENTS) ORDER 2014

2014 No. [XXXX]

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 This Order amends section 21(6) of the Firearms Act 1968 to allow persons with suspended sentences a right to apply to a court to remove the prohibition of being unable to possess a firearm, including an antique firearm, for five years.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Subsection 110(1) of the Anti-social Behaviour, Crime and Policing Act 2014 amends section 21 of the Firearms Act 1968 by extending the definition of a prohibited person to include persons with suspended sentences of three months or more and subsection 100(2) will also mean that prohibited persons are no longer able to possess antique firearms.

4.2 This amendment will remedy an omission from section 110 of the Anti-social Behaviour Crime and Policing Act 2014 by allowing persons with suspended sentences a right to apply to a court to remove the prohibition of being unable to possess a firearm, including an antique firearm, for five years.

4.3 Section 110 of the Anti-social Behaviour Crime and Policing Act 2014 will come into force on 14 July.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

The Minister for Crime Prevention, Norman Baker, has made the following statement regarding Human Rights:

In my view the provisions of the Anti-social Behaviour, Crime and Policing Act 2014 (Consequential Amendments) Order 2014 are compatible with the Convention rights.

7. Policy background

- What is being done and why

7.1 We are strengthening our existing Firearms legislation by introducing amendments to Section 21 of the Firearms Act 1968. Section 21(2) currently prohibits persons who have been sentenced to imprisonment for a term of between three months and three years from possessing firearms or ammunition for a period of five years. Persons who have been previously sentenced to imprisonment for a term for more than three years are permanently prohibited.

7.2 Subsection 110(1) of the Anti-social Behaviour Crime and Policing Act 2014 amends section 21 to ensure that those with suspended sentences of a minimum of three months are considered prohibited persons and therefore cannot possess firearms, including air weapons, for five years from the second day after sentence. This reflects the recommendation from the 2010 Home Affairs Committee that "*legislation should be amended to clarify that persons in receipt of wholly suspended sentences are subject to the same prohibitions from obtaining a licence to hold section 1 firearms or shotguns as they would be if their sentence had not been suspended*."

7.3 This amendment will ensure that persons with suspended sentences have a right to apply to a court to remove the prohibition of being unable to possess a firearm, including an antique firearm, for five years in line with the existing provision available for those who have served a term of imprisonment of between three months and three years.

7.4 Section 110 of the Anti-social Behaviour Crime and Policing Act 2014 will come into force on 14 July. This means that there will be a short delay before people can apply to a court for the removal of their prohibition. However, this is temporary and there will ultimately be the power to make such an application. The very few cases of people applying under section 21(6) for removal of prohibition suggests that only a small number of people may be (temporarily) affected. It is important to move ahead to bring section 110(1) into force to protect public safety by closing a loophole to make individuals with suspended sentences of three months or more prohibited persons and consequently not eligible to possess firearms or antique firearms.

- Consolidation

7.5 There are no immediate plans to consolidate legislation.

8. Consultation outcome

8.1 As this Order is remedying an omission, a consultation was not undertaken. The Home Office did engage with relevant stakeholders through various meetings to inform them of the proposed changes brought in by section 110 of the Anti-social Behaviour, Crime and Policing Act 2014.

9. Guidance

9.1 The Home Office circular and Home Office Guide to Firearms Licensing have been updated and are available on the GOV.UK website. We have informed the relevant stakeholders and law enforcement of the amendment.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector will be a minimal increase in the number of appeals made to the courts.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Ministry of Justice collect the number of appeals made under section 21(6) and although these are not published they are available. We will review annually to monitor the number of appeals made.

13. Contact

Sam Darby at the Home Office Tel: 0207 035 3273 or email: Samantha.Darby1@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.