EXPLANATORY MEMORANDUM TO

THE CRIMINAL JUSTICE ACT 1988 (OFFENSIVE WEAPONS) (AMENDMENT) ORDER] 2016

2016 No. [XXXX]

1. Introduction

1.1 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 instrument adds zombie knives, zombie killer knives and zombie slayer knives to the list of offensive weapons by amending the Criminal Justice Act 1988 (Offensive Weapons) Order 1988 to include them.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 This entire instrument applies only to England and Wales.

3.3 This instrument applies only to England and Wales as article 1(2) expressly provides that the instrument extends to England and Wales only.

3.4 In the view of the Department, for the purposes of House of Commons Standing Order 83P the subject-matter of this entire instrument would be within the devolved legislative competence of the Northern Ireland Assembly if equivalent provision in relation to Northern Ireland were included in an Act of the Northern Ireland Assembly as a transferred matter and the Scottish Parliament if equivalent provision in relation to Scotland were included in an Act of the Scottish Parliament.

3.5 The Department has reached this view because it considers that the primary purpose of the instrument relates to offensive weapons which is within the devolved legislative competence of the Scottish Parliament and Northern Ireland Assembly; the primary purpose of the subject matter of the instrument is not within Schedule 5 to the Scotland Act 1998 and is not otherwise outside the legislative competence of the Scottish Parliament (see section 29 of that Act); the primary purpose of the subject matter of the instrument is not within Schedules 2 or 3 to the Northern Ireland Act 1998 and is not otherwise outside the legislative competence of the Northern Ireland Assembly (see section 6 of that Act).

4. Legislative Context

4.1 Under section 141 of the Criminal Justice Act 1988, it is an offence to manufacture, sell, hire (etc) a weapon specified in an Order made under that section. The importation of any such weapon is also prohibited. A number of descriptions of weapons have been specified under section 141, including butterfly knives,

knuckledusters and certain types of swords. These weapons are listed in the Criminal Justice Act 1988 (Offensive Weapons) Order 1988 (S.I. 2008/2019).

5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales (see paragraph 3.3 above).

5.2 The territorial application of this instrument is set out in Section 3 under "Other matters of interest to the House of Commons".

6. European Convention on Human Rights

6.1 The Minister for Preventing Abuse, Exploitation and Crime has made the following statement regarding Human Rights:

"In my view the provisions of the Criminal Justice Act 1988 (Offensive Weapons) (Amendment) Order 2016 are compatible with the Convention rights.".

7. Policy background

What is being done and why

7.1 The primary policy objective is to preserve public safety. Police forces advise that there has been an increase in the number of zombie knives, zombie killer knives, and zombie slayer knives used in the commission of criminal offences. Police advice is that the availability, aesthetic appeal and low cost of these weapons have made them one of the weapons of choice for youths with criminal intentions.

7.2 This relatively new type of knife, with a cutting blade, a serrated edge and often including other features such as gut hooks and sharp points in the back of the blade, is very dangerous. Zombie knives have been found during weapons sweeps operations, hidden to be used as and when needed. They have also been found in knife surrender bins. In 2015 a young boy aged 17 was murdered in London with a zombie knife sold as a 'Renegade Zombie Killer Machete/Head Decapitator'.

7.3 The Government is concerned by the increasing availability and proliferation of these weapons and seeks to move quickly in order to introduce a complete ban to preserve public safety.

7.4 The Government has decided to legislate in order to reduce the availability of such weapons for criminal purposes. The Government received significant numbers of correspondence and representations from a wide range of stakeholders who all expressed support for the proposal to add these weapons to the prohibited weapons list, and included representations from the police, Police and Crime Commissioners, Members of Parliament and members of the public.

8. Consultation outcome

8.1 A public consultation has not been conducted. However, the Government has contacted the British Retail Consortium and the British Independent Retailers Association who were not aware that any of their members sold zombie knives. Retailers selling zombie knives were identified by online searches. The 13 identified UK-based retailers who sell zombie knives via their websites were contacted to ascertain the impact of this measure on their businesses. The vast majority of small retailers advised that the impact would be very small or negligible.

8.2 Two wholesalers were identified, and the Government believes that all zombie knives in England and Wales are made available by either of these two wholesalers. The Government is fortified in this understanding as an internet search found no retailers stocking zombie knives other than those sold by these two firms. Both of the wholesalers supplied revenue data and from this it has been established that the cost to these businesses will be an ongoing loss in revenue of £104,000 per year.

9. Guidance

9.1 No guidance is provided with this Statutory Instrument. The changes to legislation will be publicised on the Gov.uk website.

10. Impact

10.1 The impact on small business, charities or voluntary bodies is negligible. The impact on the two wholesale retailers who supply the smaller retailers has been calculated as a combined loss in revenue of £104,000 per year.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment is submitted with this memorandum and will be published alongside the Explanatory Memorandum on the legislation.gov.uk website.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses, but as shown in the impact assessment, the impact to small online retailers is negligible and the impact to the two UK-based wholesale retailers is as stated in paragraph 10.1.

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

11.3 As set out in paragraph 8.1 above, the Government has contacted the small businesses affected by this policy and concluded that the impact on their business will be very small. Accordingly the Government has concluded that no mitigating action for such businesses is necessary.

12. Monitoring & review

12.1 The Minister for Preventing Abuse, Exploitation and Crime has made the following statement regarding monitoring and review:

"The impact on businesses of this provision is low, as evidenced in the impact assessment. Therefore, in my view it is not appropriate to make provision for a review of this Order as conducting a review would be disproportionate to the economic impact of the Order. The Government will monitor the operation of this Order through recorded crime statistics and convictions data."

13. Contact

13.1 Esperanza Gomez at the Home Office; Tel: 020 7035 0264 Email: Esperanza.Gomez@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.