EXPLANATORY MEMORANDUM TO

THE NORTHERN IRELAND ARMS DECOMMISSIONING ACT 1997 (AMNESTY PERIOD) ORDER 2009

2009 No.

1. This explanatory memorandum has been prepared by the Northern Ireland Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 Any scheme put in place by the Secretary of State for the decommissioning of weapons in Northern Ireland must identify an amnesty period during which those handling weapons in accordance with the scheme are immune from prosecution for weapons offences. This amnesty must end before a day appointed by the Secretary of State. This Order appoints 9th February 2010 as that date.

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

3.1 None

4. Legislative Context

4.1 The Northern Ireland Arms Decommissioning Act 1997 Act ("the 1997 Act") concerns the decommissioning of firearms, ammunition and explosives in Northern Ireland. S.2(1) of the Act requires any decommissioning scheme[1] put in place by the Secretary of State to specify an amnesty period as part of the scheme. A person acting in accordance with the decommissioning scheme during the amnesty period will be immune from prosecution for certain offences related to weapons. The offences are listed in the Schedule to the Act.

S.2(2)(b) of the 1997 Act provides that the amnesty period must end either by the 27th February 2003[2] or before a date appointed by the Secretary of State. The Secretary of State must appoint this date by means of an Order which must be approved by Parliament. A date appointed by the Secretary of State must be no later than the 27th February 2010[3], and the Secretary of State can only appoint a date which is within 12 months of the date that the order appointing the new date is made. There have been a number of previous Orders altering the date before which the obligatory amnesty in any

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1 Defined in section 1(1) of the Act as any scheme which is made by the Secretary of State to facilitate the decommissioning of firearms, ammunition and explosives in Northern Ireland.

2 The date in the Act as enacted was 27th February 1998.This was amended to 27th February 2003 by the Northern Ireland Arms Decommissioning (Amendment) Act 2002 c.6.

3 The date in the Act as enacted was 27th February 2003. This was amended to 27th February 2007 by the Northern Ireland Arms Decommissioning (Amendment) Act 2002 c.6, and then further amended to 27th February 2010 by the Northern Ireland (Miscellaneous Provisions) Act 2006 c33.

decommissioning scheme must end. The most recent of these, the Northern Ireland Arms Decommissioning Act 1997 (Amnesty Period) Order 2008, appointed 14th February 2009 as this date. This draft Order revokes that Order and appoints 9th February 2010 as the date.

5. Territorial Extent and Application

5.1 This instrument applies to Northern Ireland.

6. European Convention on Human Rights

Shaun Woodward, the Secretary of State for Northern Ireland has made the following statement regarding Human Rights:

In my view the provisions of the Northern Ireland Decommissioning Act 1997 (Amnesty Period) Order 2009 are compatible with the Convention rights.

7. Policy background

7.1 The purpose of the Order is to extend, for one further year to 9 February 2010, the period during which immunity from prosecution for the offences set out in the Schedule to the 1997 Act may be extended to those decommissioning weaponry in accordance with the decommissioning scheme.

8. Consultation outcome

8.1 As with previous extension orders no consultation was undertaken, however the extension of the amnesty period does not represent any change in government policy.

9. Guidance

9.1 Further guidance on the decommissioning amnesty period can be found in the Northern Ireland Arms Decommissioning Act 1997 and in the Decommissioning Scheme[4].

10. Impact

10.1 This instrument has no impact on business, charities or voluntary bodies.

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4 Available on the Northern Ireland Office Website. Non Statutory Decommissioning Scheme (http://www.nio.gov.uk/decommissioning_scheme_based_on_section_3(1)(c)_and_(d)_of_the_northern_ireland_arms_decommssioning_act_1997.pdf) and the Supplementary Decommissioning Scheme (http://www.nio.gov.uk/decommissioning_scheme_based_on_section_3.1_of_ni_arms_decommissioning_act_1997.pdf)

10.2 The impact on the public sector is limited to a curtailment of the ability of public authorities to prosecute certain conduct relating to weapons carried out in accordance with a decommissioning scheme which would otherwise be an offence.

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 decommissioning scheme is monitored by the Independent International Commission on Decommissioning (IICD) who were established by treaty between the British and Irish Governments to oversee the decommissioning of paramilitary weapons. In addition the 1997 Act is annually reviewed by the Secretary of State when considering whether to extend the decommissioning amnesty period for a further year.

13. Contact

Caroline Mersey at the Northern Ireland Office (Tel: 028 9052 7954 or e-mail: caroline.mersey@nio.x.gsi.gov.uk) can answer any queries regarding the instrument.