EXPLANATORY MEMORANDUM TO

THE SURRENDER OF OFFENSIVE WEAPONS (COMPENSATION) REGULATIONS 2020

2020 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 The regulations set out arrangements for the payment of compensation to the lawful owners of certain offensive weapons and firearms who surrender these in accordance with arrangements set out by the Secretary of State before their ownership becomes prohibited by virtue of sections 43, 44, 46, 47, 54 and 55 of the Offensive Weapons Act 2019.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 The territorial application of Parts 1 and 3 of this instrument includes Scotland and Northern Ireland.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom. Parts 1 (Introductory) and 3 (Compensation for surrendered firearms etc) of these Regulations extend to England and Wales, Scotland and Northern Ireland. Part 2 (Compensation for surrendered offensive weapons) extends to England and Wales.

4.2 The territorial application of this instrument is the same as its extent.

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 Surrender of Offensive Weapons (Compensation) Regulations 2020 are compatible with the Convention rights."

6. Legislative Context

6.1 Section 1 of the Restriction of Offensive Weapons Act 1959, section 141 of the Criminal Justice Act 1988 and the Schedule to the Criminal Justice Act 1988 (Offensive Weapons) Order 1988 (S.I. 1988/2019) regulate the control of offensive weapons, dangerous weapons and bladed articles in England and Wales.

6.2 Section 5 of the Firearms Act 1968 prohibits the possession of specific types of weapon, such as handguns and automatic weapons, without the authority of the Secretary of State or the Scottish Ministers in England and Wales and Scotland. Article 5 of the Firearms (Northern Ireland) Order 2004 (S.I. 2004/702) ("the 2004 Order") makes equivalent provision in relation to Northern Ireland.

6.3 Sections 43, 44, 46 and 47 of the Offensive Weapons Act 2019 ("the 2019 Act") amend the legislation referred to in paragraph 6.1 to add categories of offensive weapon subject to control and to prohibit the possession of such weapons. Section 54 of the 2019 Act amends the Firearms Act 1968 and section 55 of the 2019 Act amends the 2004 Order to add categories of firearm to the list of weapons subject to general prohibition.

6.4 Section 48 of the 2019 Act makes provision for the surrender at designated police stations of offensive weapons where their possession will become prohibited by virtue of sections 43, 44, 46 and 47 of the 2019 Act. Section 57 of the 2019 Act makes provision for surrender of firearms which will become prohibited and ancillary equipment which is designed for use in connection with that category of firearm and has no practicable use in connection with any firearm which is not a prohibited weapon.

6.5 Section 49 of the 2019 Act makes provision for compensation to be payable in respect of offensive weapons surrendered in accordance with arrangements made under section 48 of the 2019 Act. Sections 58 to 60 of the 2019 Act make provision for compensation to be payable in respect of firearms and ancillary equipment surrendered in accordance with arrangements made under section 57 of the 2019 Act.

6.6 These Regulations, made in exercise of powers contained in sections 49 and 58 to 60 of the 2019 Act, make the provision required by those sections for payments to be made in respect of surrendered weapons, firearms and ancillary equipment.

7. Policy background

What is being done and why?

7.1 The overarching policy objective is to protect public safety by limiting the availability of certain offensive weapons and firearms to prevent their use in violent offences.

7.2 Against a backdrop of recent rises in violent crimes involving knives and other offensive weapons, the Offensive Weapons Act 2019 will prohibit the ownership of certain offensive weapons which could be used in such crimes. The Secretary of State will introduce arrangements to allow for members of the public to surrender, in a secure and orderly way, those offensive weapons that will be prohibited by the 2019 Act which are, and were, in their lawful possession when the relevant measures were introduced through the Offensive Weapons Bill. Recognising that it is both right and fair to compensate lawful owners for surrender of their property, the Secretary of State is making these arrangements for the payment of compensation.

7.3 The 2019 Act will also prohibit certain firearms which pose a significant risk to public safety if they were to fall in to the hands of criminals or terrorists and misused for violent purposes. This includes certain rapid firing rifles and also bump stocks, employed to significantly increase the rate of fire of self-loading rifles. The Secretary of State will introduce arrangements to allow for those who lawfully own the firearms that will become prohibited to surrender, in a secure and orderly way, these items that

are, and were, in their lawful possession when the relevant measures were introduced through the Offensive Weapons Bill. Recognising that it is both right and fair to compensate lawful owners for surrender of their property, the Secretary of State is making these arrangements for the payment of compensation.

8. European Union (Withdrawal) Act / Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 This is the first exercise of the power and the issue of consolidation does not arise.

10. Consultation outcome

10.1 The Home Office consulted on prohibiting rapid firing rifles through section 5 of the Firearms Act 1968 and also making it a criminal offence to possess certain offensive weapons in private, as part of a public consultation on new legislative measures which began on 14 October 2017 and closed on 9 December 2017. The public consultation received 10,712 responses. The consultation received responses from a variety of organisations including legal organisations, firearms organisations, knife organisations, sport/historic organisations, trade organisations and retailers.

10.2 In relation to compensation, there was some consideration in responses of the adequacy of potential payment as perceived from estimates that had been set out in initial Impact Assessments. The design of the scheme has taken into account a standard level of compensation for items; however, it has also allows an individual to seek a higher amount of compensation by providing acceptable evidence of the value of the item being surrendered.

10.3 Following the consultation the Government introduced the Offensive Weapons Bill in to Parliament on 20 June 2018 and this received Royal Assent as the Offensive Weapons Act 2019 on 16 May 2019.

11. Guidance

11.1 Before the surrender and compensation scheme launches, the process for surrendering in line with the legislation will be publicised and how to make a claim for compensation will be explained.

12. Impact

12.1 There is no significant impact on charities or voluntary bodies. There will be a benefit to individual owners, collectors, dealers (including Registered Firearms Dealers) and businesses in receiving compensation for surrendering the property ahead of the prohibitions coming into force.

12.2 There is a financial impact on the public sector. There will be costs to the police in providing the public the opportunity to surrender their firearms and offensive weapons. The Government will be responsible for paying compensation to those people who surrender their weapons in accordance with the surrender and compensation arrangements. The costs to the public sector are estimated in the impact assessment.

12.3 An Impact Assessment has been completed covering the provisions in the Offensive Weapons Act 2019 and is available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/717684/Impact_Assessment.pdf

13. Regulating small business

13.1 Businesses affected by the prohibition of certain offensive weapons and firearms will be anticipating the introduction of the compensation arrangements, as it will allow them to be compensated for the value of surrendered items.

14. Monitoring & review

14.1 The National Police Chiefs Council will have oversight of the implementation of the surrender arrangements across England and Wales and, by agreement, in Scotland and Northern Ireland, during the required period. The compensation process will be monitored and reviewed by the Home Office.

14.2 The regulation does not include a statutory review clause. The impact of the measures in the Offensive Weapons Act 2019 will be monitored using feedback from stakeholders including the police and through statistics relating to the prosecution of the new offences in the Act. The Act will be subject to post legislative scrutiny within five years of receiving Royal Assent.

15. Contact

15.1 Bernard Lane at the Home Office, Telephone: 020 7035 0099 or email: Bernard.Lane@homeoffice.gov.uk can be contacted with any queries regarding the instrument.

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

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