EXPLANATORY MEMORANDUM TO

THE FIREARMS (NORTHERN IRELAND) ORDER 2004 (AMENDMENT) REGULATIONS 2012

2012 No. 395

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Justice (the Department) to accompany the above-named Statutory Rule which has been laid before the Northern Ireland Assembly.

1.2. The Rule is made under Section 2(2) of the European Communities Act 1972 in relation to firearms and ammunition except in relation to prohibited weapons and prohibited ammunition. It is subject to the negative resolution procedure.

2. Purpose

2.1. The purpose of this instrument is to make a small change to our controls over the import of firearms from the European Union, helping shooters from the EU to take part in the World Police and Fire Games 2013.

2.2. Under the terms of Article 15(6) of the Firearms (Northern Ireland) Order 2004, EU citizens who wish to bring guns into Northern Ireland must submit an original document, the European Firearms Pass (EFP) to obtain a Visitor's Firearm permit (VFP) authorising their possession of guns in Northern Ireland. The purpose of these regulations is to amend our controls so as to allow the Chief Constable of the Police Service of Northern Ireland (the Chief Constable) to grant a VFP on submission of the original EFP or a copy of that document, rather than just the original.

3. Background and Policy Objectives

3.1. The requirements in Article 15(6)(a) were inserted into the Firearms (Northern Ireland) Order 1981 by regulation 6 of the Firearms (Northern Ireland) Order 1981 (amendment) Regulations 1992, made under Section 2(2) of the European Communities Act 1972. The 1992 Regulations implemented the European Weapons Directive (Council Directive 91/477/EEC). The Firearms (Northern Ireland) Order 1981 was repealed by the Firearms (Northern Ireland) Order 2004, which re-enacted the requirements of that part of the Directive dealing with EFP.

3.2. The proposed amendment is to be made under section 2(2) of the European Communities Act 1972. This is to improve the implementation of the European Weapons Directive 1991 (as amended by the later 2008 Directive). The need for this amendment arose in the context of the World Police and Fire Games 2013. It is anticipated that large numbers of competitive shooters

will attend the World Police and Fire Games 2013. While the change is not in response to a direct trigger from the European Union, the Northern Ireland Assembly is satisfied that section 2(2) of the European Communities Act 1972 is the appropriate enabling power to amend the implementation of an EU Directive. This is in line with case law (Oakley v Animal (2005)).

3.3. The Department believes that the initial implementation in 1992, which subsequently adopted by the Firearms (Northern Ireland) Order in 2004, was not satisfactory, in that it is overly burdensome on visitors from the EU who wish to obtain a VFP. Therefore it should be amended. A transposition note is included at Annex A.

3.4. Article 15 of the Firearms (Northern Ireland) Order 2004 provides for the Chief Constable to issue a VFP permitting overseas visitors to possess firearms and ammunition in Northern Ireland. The 1991 Directive introduced the EFP, intended as a form of 'passport' for shooters to travel between EU countries without having to obtain separate authorisation for each state visited.

3.5. The problem is that Article 15(6) of the Firearms (Northern Ireland) Order 2004 simply refers to 'a document' rather than a copy of such a document. This has always been understood to mean the original EFP must be submitted to the Chief Constable before the VFP can be granted. Sending the EFP to a Northern Ireland sponsor who submits this to the PSNI who must then process this can take several weeks. During this time, the shooter cannot travel with his/her guns to other EU countries that he/she visits. For competitive sports shooters this is a problem as it can prevent them for attending training events and competitions while their EFP is with the UK authorities.

3.6. The Chief Constable will be responsible for the issue of VFP to competitors in the World Police and Fire games Northern Ireland. If the original certificate is required there is a risk that competitors from EU countries will be disadvantaged in the lead-up to the Games in being unable to travel to practice events in other EU states. This is in contrast to competitors from outside the EU who can simply submit copies of their documents in order to obtain a VFP. A legislative solution is therefore the most practical option.

3.7. Great Britain made a similar amendment in advance of the 2012 Olympic and Paralympic Games. The Chief Constable supports the use of a copy of the European Firearms Pass in line with the process being used in Great Britain.

3.8. It is proposed to bring the change into effect on the 29 November 2012. This will allow PSNI to advise shooters coming from the EU in good time for VFP applications to be made before test events leading up to the 2013 games are underway.

4. Consultation Outcome

4.1. The Department undertook a consultation on the acceptance of the European Firearms Pass as part of the consultation on proposals to vary firearms licensing fees and other miscellaneous amendments to the Firearms (Northern Ireland) Order 2004. It was a full public consultation. The consultees were individuals and bodies representative of section 75 of the Northern Ireland Act 1998 and other organisations with an interest in firearms. All members of the Northern Ireland Assembly were consulted and the consultation was advertised in the local press. In total there were 18 responses on this issue. 15 of those responses agreed with the proposal and three responses disagreed, two of those who disagreed expressed concern that the documents could be altered. The PSNI supported the change.

5. Equality Impact

5.1. An Equality Impact Assessment (EQIA) was carried out in respect of the Consultation on proposals to vary firearms licensing fees and other miscellaneous amendments to the Firearms (Northern Ireland) Order 2004. There is no significant adverse impact on those listed under Section 75 of the Northern Ireland Act 1998 and therefore a full Equality Impact Assessment is not required.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

7. Financial Implications

7.1. The Regulations do not place any additional financial burden on Firearms holders. There are no anticipated financial implications for either industry of the voluntary sector.

8. Section 24 of the Northern Ireland Act 1998

8.1. It is the view of the Department that these draft Regulations are compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. The Statutory Rule complies with European Weapons Directive (Council Directive 91/477/EEC) as amended by Directive 2008/51/EC.

10. Parity or Replicatory Measure

10.1. This is stand alone legislation for Northern Ireland and there is no impact on Great Britain.

10.2. In Great Britain the Firearms (Amendment) Act 1998 (Amendment) Regulations 2011 (S.I. 2011/2175) provide for the acceptance of a copy of the European Firearms Pass.

11. Additional Information

11.1. A transposition note is attached at Annex A.

11.2. The Statutory Rule comes into operation on 29 day of November 2012.

12. Contact

12.1. Robert Kidd at the Department of Justice. Telephone: 028 9052 2993 or e-mail: FEB@dojni.x.gsi.gov.uk may be contacted to provide any additional information.