

An Garda Síochána



The Garda Commissioner's Guidelines as to the Practical Application and Operation of the Firearms Acts, 1925-2009.

Issued in accordance with section 3A of The Firearms Act, 1925 as inserted by section 31 of the Criminal Justice Act, 2006.

FOREWORD

Section 3A of the Firearms Act 1925, provides that the Garda Commissioner with the consent of the Minister, may from time to time issue Guidelines in relation to the practical application and operation of any provision of the Firearms Acts 1925 to 2009, or of any regulation made under any provision of those Acts and may also issue Guidelines in relation to applications for firearm certificates and authorisations under this Act and to the conditions which may be attached to those certificates and authorisations.

This is the first significant updating of the Garda Commissioner's Guidelines since the original document issued on 4th September 2009, following the commencement of legislation on 1st August 2009 that introduced key changes to the licensing of firearms in this country. These Guidelines continue to set out in practical terms, for the benefit of members of the Garda Síochána and the public alike, how the complex area of firearms legislation may be applied and this document should be read in conjunction with firearms legislation.

It must be emphasised that this document is a 'Best Practice' document which chief superintendents and superintendents shall have recourse to when considering applications for firearms certificates within their respective Divisions or Districts, and is viewed as an aid to the implementation of the Firearms Acts 1925 to 2009. Divisional and District Officers should also ensure that personnel under their control are fully aware of the contents of this document, particularly those tasked with processing new applications and applications to renew firearm certificates.

As of necessity, these guidelines will be subject to further amending and updating as appropriate to take account of any legislative provisions as and when commenced as well as emerging case law.

I am particularly grateful to the staff of Policy Development, Implementation and Monitoring, Garda Headquarters, for their expertise, knowledge and skill in compiling this document.



J. A. Harris

COMMISSIONER OF AN GARDA SÍOCHÁNA

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COMMISSIONER'S GUIDELINES

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CHAPTER 1: INTRODUCTION

The principal purpose of this document is to provide common guidance to the Garda Síochána and members of the public alike, as to the practical application and operation of the provisions of the Firearms Acts 1925 to 2009.

LEGISLATIVE DEVELOPMENTS

Major changes in firearms licensing legislation were enacted in the Criminal Justice Act 2006 and the Criminal Justice (Miscellaneous Provisions) Act 2009. An important body of related case law has also come into being over recent years. These Guidelines quote the case law extensively because of its capacity to clarify how the law should be applied. This is, for example, especially relevant when dealing with the conditions that may be considered when granting a firearms certificate.

It must be emphasised that these Guidelines are not a statement of the law: rather they provide a cohesive explanation of the complex area of firearms licensing and should be read in conjunction with firearms legislation, in particular, legislation contained in the Criminal Justice Act, 2006 and the Criminal Justice (Miscellaneous Provisions) Act 2009 and relevant Statutory Instruments that have issued in recent years. Moreover, references made in the Guidelines to law are clearly made to the law as it existed at the time of writing and it is therefore vitally important that readers consult the most up to date legislation and case law.

THE GUIDELINES

Section 3A of the Firearms Act 1925 as inserted by section 31 of the Criminal Justice Act 2006, empowers the Garda Commissioner, with the consent of the Minister for Justice and Equality, from time to time to issue Guidelines in relation to the practical application and operation of any provision of the Firearms Acts 1925 to 2009 or of any regulation made under any provision of those Acts. In particular, such Guidelines may relate to applications for firearm certificates and authorisations and to the conditions which may be attached to those certificates and authorisations and it is within this context that this document is issued. In general terms the Garda Síochána are responsible for the licensing and authorising of legally held firearms and ammunition, while the Minister for Justice and Equality is primarily responsible for processes surrounding the import and export of firearms and ammunition and maintaining the register of firearms dealers.

In its operation of the firearms licensing legislation, the Garda Síochána shall have regard to the need to fulfil its Human Rights obligations, informed and guided by our Code of Ethics. These obligations extend to individual applicants and the wider community alike.

In operating the licensing system, the Garda Síochána shall aim to provide a service that facilitates the efficient processing of all applications pertaining to firearms certificates, authorisations etc. while at all times ensuring that the interest of public safety remains paramount. Superintendents and chief superintendents of the Garda Síochána are

ultimately responsible for the administration of the firearms legislation in their Districts and Divisions and they will continue to act as *personae designate* under the Firearms Acts 1925 to 2009. Each application will always be assessed on its own individual merits in accordance with the law.

All individuals authorised to possess, use or carry any firearm under certificate under the Firearms Acts 1925 to 2009 must at all times act in a responsible manner and fully comply with any conditions attached to the grant of such firearm certificate. It is also incumbent on the holder of a firearm certificate to inform his/her local superintendent (or chief superintendent as the case may be) of any changes in the circumstances surrounding the grant of a firearm certificate or authorisation during the lifetime of the certificate or authorisation. Such changes could include the sale or disposal of the firearm or a change of address of the holder etc.

CHAPTER 2: APPLICATIONS FOR FIREARMS CERTIFICATES - APPEALS TO DISTRICT COURT – REVOCATIONS

All persons wishing to possess, use or carry a firearm or ammunition, must first apply on application form FCA1 (to the relevant member of the Garda Síochána) and be granted a firearm certificate, unless he or she is exempted under Section 2 of the Firearms Act 1925. This application form is available at all Garda stations or on the Garda website www.garda.ie and the cost of a 3 year certificate is €80 for each licensed firearm.

APPLICATION PROCESS – EFFECT OF FIREARMS CERTIFICATE

Section 30 of the Criminal Justice Act 2006, as amended by section 43 of the Criminal Justice (Miscellaneous Provisions) Act 2009, substituted section 3 of the Principal Act (hereinafter section 3 as amended) and distinguishes between a firearm certificate and a restricted firearm certificate. An application for a firearm certificate (other than a restricted firearm certificate) shall be made to the superintendent of the Garda Síochána of the district in which the applicant resides. An application for a restricted firearm certificate shall be made to the Garda Commissioner who has delegated his functions for the licensing of restricted firearms to members of An Garda Síochána of chief superintendent rank. If an application relates to a restricted firearm certificate, the superintendent of that district shall forward the application for processing to the chief superintendent of the division in which the applicant resides.

Each application for a firearm certificate shall be made on the application form FCA1 at the applicant's local Garda station and two recently taken passport size photographs of the applicant shall be attached to this form. The application form will be reviewed against a checklist by the receiving Garda (in the presence of the applicant if possible) to ensure that it is completed in full. The identity of the applicant will be confirmed. The application will then be forwarded by the receiving Garda as soon as is practicable to the superintendent or chief superintendent (if the application refers to a restricted firearm). All applications shall be examined at the district office (or divisional office if the application refers to a restricted firearm) to ensure their validity and written notification will be forwarded to the applicant of its validity within 10 working days of receipt. Applicants will be informed that additional information may be required of them.

NOTE: The relevant fee does **not** accompany the application. The collection of fees has been outsourced to An Post and fees are not payable until the firearm certificate has been granted by the issuing person and the applicant informed of such grant in writing by means of a 'grant notice letter'.

An application to substitute a firearm will not require a fee and is also made by the applicant on application form FCA1 by ticking the 'Substitution' box. Further photographs, referees, medical details (unless changed) are **not** required when applying to substitute a firearm. (See Annex 'E' for further guidance on substitutions).

To amend or cancel a firearm certificate – form FCA2 is to be used. This form is also available on the Garda website www.garda.ie. It should be noted that a person who applies for a firearm certificate will have the information in respect of their application retained on the Garda Síochána computer system.

NOTE: Under section 29(1) of the Wildlife Act 1976, if the applicant intends to use the firearm to hunt and kill exempted wild mammals within the meaning of the Wildlife Act, 1976 (other than hares), he/she must hold a current licence to do so, which is issued by the National Parks and Wildlife Service.

The firearms certificate shall authorise the named individual:

- (a) to possess, use and carry the firearm specified in the certificate,
- (b) to purchase ammunition for use with the firearm, and
- (c) at any one time, to possess or carry not more than the amount of ammunition specified in the certificate.

The applicant shall supply in writing any further information requested by issuing persons of the Garda Síochána performing their functions under this section.

RENEWALS OF FIREARM CERTIFICATES

A firearm certificate shall continue in force for a period of 3 years from the date on which it was granted, unless otherwise revoked. The holder of a firearm certificate may apply for the renewal of the certificate up to 3 months prior to the date it ceases to be in force. An application to renew a firearm certificate is made on the Firearm Certificate Renewal form (FCR) which is forwarded by post to each holder of a firearm certificate approximately 3 months prior to the expiry of their current certificate. The FCR is pre populated and contains details relevant to each firearm certificate. Each applicant for renewal is required to amend/update any changes in relation to their circumstances e.g. referees, lands etc. in the relevant section of the FCR prior to returning the signed renewal form to An Garda Síochána for processing. One recently taken passport size photograph of the applicant shall be attached to this form. An issuing superintendent or chief superintendent must be satisfied that each applicant applying to renew their firearm certificate(s) continues to comply with the conditions of grant and maintain their nominated 'good reason' to licence the firearm.

NOTE: It is now mandatory (M) that each applicant includes his/her General Practitioner details on the Firearm Certificate Renewal (FCR) form prior to returning it to An Garda Síochána for processing. This information is required as General Practitioner details in respect of firearm licence holders are not retained on the PULSE system.

RESTRICTED OR NON RESTRICTED FIREARM?

Attention is drawn to Statutory Instrument No: 391 of 2015: Firearms (Restricted Firearms and Ammunition) (Amendment) Order 2015 which came into operation on 15th September 2015 and further amended Statutory Instruments No: 337 of 2009 and No: 21 of 2008. Statutory Instrument No: 391 of 2015 provides that .22-inch LR (5.58mm) calibre pistols (used for the purpose of target shooting at an authorised rifle or pistol club or authorised shooting range) are defined as non-restricted firearms provided the magazine is manufactured or modified prior to use to hold no more than 5 rounds. Applications for a firearm certificate for these short firearms and all air operated short firearms using .177-inch (4.5mm) calibre ammunition (air pistols), shall be made to the superintendent of the district where the applicant resides.

In brief, all short firearms are defined as restricted firearms with the exceptions as outlined in Statutory Instrument No: 21 of 2008, as amended, and in particular Statutory Instrument No: 391 of 2015 as outlined above. No new applications shall be considered to licence a restricted short firearm (other than for a short firearm for which the applicant held a firearm certificate on or before 19th November 2008) as provided in section 30 of the Criminal Justice (Miscellaneous Provisions Act) 2009.

Additionally, any rim fire rifle with a magazine holding in excess of 10 rounds is defined as a restricted firearm, as is any rifle exceeding .308 inch (7.62mm) calibre and whose overall length is less than 35.4 inches (90 cm). Any shotgun that can hold more than 3 cartridges (unless manufactured, modified or adapted to hold no more than 3) or having a detached, folding stock or with a pistol grip or having a barrel less than 24 inches (61 cm) in length also comes within the restricted firearm category. Applications for firearm certificates for restricted firearms are considered by the chief superintendent of the division where the applicant resides, having been so delegated by the Garda Commissioner.

REQUIREMENTS TO BE MET IN THE CASE OF APPLICATIONS FOR BOTH RESTRICTED AND NON RESTRICTED FIREARMS CERTIFICATES

Under section 4 of the Firearms Act 1925, as substituted by section 32 of the Criminal Justice Act 2006, a Garda superintendent or chief superintendent (the issuing person) shall not grant a firearm certificate unless satisfied that the applicant complies with the following conditions and will continue to comply with them during the lifetime of the certificate:

- 1 The individual has a 'good reason' for requiring the firearm in respect of which the certificate is applied for.

(As well as assessing fitness of the individual to possess firearms, 'good reason' is one of the most substantial and complex areas of discretion that the appropriate Garda superintendent and chief superintendent will exercise in deciding whether to grant an individual a firearms certificate. (See Chapter 3 for further guidance).

- 2 The individual can be permitted to possess, use and carry a firearm or ammunition without danger to the public safety or security or the peace and,
- 3 The individual is not a person declared by this Act to be disentitled to hold a firearms certificate. (See Annex 'A' further guidance).
- 4 The individual has provided appropriate secure accommodation for the firearm at the place where it is to be kept. (See Annex 'C' for further guidance).
- 5 The individual complies with such other reasonable conditions (if any) specified in the firearms certificate, including any such conditions to be complied with before a specified date in the interest of public safety or security.
- 6 Where the firearm is a rifle or pistol to be used for target shooting, the individual is a member of a rifle or pistol club authorised under section 4A of the Firearms Act 1925, as inserted by section 33 of the Criminal Justice Act, 2006.
- 7 A member of the Garda Síochána may inspect the accommodation for a firearm provided by an applicant for a firearm certificate or require the applicant to provide proof of its existence.
- 8 The superintendent or chief superintendent may, under section 4(3) of the Firearms Act 1925 as inserted by section 32 of the Criminal Justice Act 2006, require the following in support of an application:
 - (a) Proof of identity – where the applicant is not personally known to the member of the Garda Síochána, an identity document carrying a photograph of the holder such as an original passport or driving licence or other satisfactory proof of identity must be produced to the member receiving the application.
 - (b) **PROOF OF COMPETENCE** in the use of the firearm or ammunition subject of the application. An individual who has already possessed a certificate (without any convictions under the Firearms Act 1925 to 2009) for a period of a minimum of 1 year may be considered to have fulfilled the proof of competency. First time applicants for firearms certificates may demonstrate competency by satisfying the issuing person of having attended a firearms training course or of having joined an authorised rifle or pistol club or range for the purpose of gaining competency in firearms use, or having previously been granted a firearms training certificate.

Issuing persons should be mindful to not grant a firearm certificate to any individual unless satisfied the person is competent to possess, use and carry a firearm without danger to the public or indeed the applicant himself/herself. An issuing person must be satisfied that public safety is

never compromised when making these decisions. Issuing persons should however be mindful that the Act only requires proof of competency. Proof of proficiency in using a firearm, such as expertise in target shooting etc. is not necessary when considering proof of competence.

- (c) Written consent for any medical enquiries to be made in relation to the applicant's medical history from a health professional by or on behalf of the issuing person - access to an individual's medical practitioner will only be necessary where the circumstances dictate a requirement for doing so. **NOTE:** Section 2.2 of application form FCA1 must be completed in full by every applicant for a firearms certificate. (See Annex 'B' for further guidance).
- (d) The names and addresses of two referees who may be contacted to attest to the character of the applicant. (See Annex 'B' for further guidance on referees).

Additional Requirements in the Case of an Application for a Restricted Firearm Certificate and Restriction on Licensing of Short Firearms

Section 3 of the Firearms Act 1925 as amended, requires an application for a restricted firearm certificate to be made to the Commissioner who has delegated his function under this section to members of the Garda Síochána holding the rank of chief superintendent. The chief superintendent must be satisfied as to the following requirements:

- (a) that the applicant fully complies with the conditions as provided for in section 4 of the Firearms Act 1925 as amended by section 32 of the Criminal Justice Act 2006, i.e. the conditions in the case of an application for a non-restricted firearm (as outlined above).
- (b) that the applicant has good **and** sufficient reason for requiring the firearm for which the certificate is sought, **and**
- (c) has demonstrated that the firearm is the only type of weapon appropriate for the purpose for which it is required.

FIREARMS TRAINING CERTIFICATE

Section 2A of the Firearms Act 1925, as inserted by section 28 of the Criminal Justice Act 2006, relates to firearms training certificates. An application for a firearms training certificate is also made on form FCA1 and is 50% of the fee (€40) of an ordinary firearm certificate. The payment process is also outsourced to An Post. A renewal notice for a firearm training certificate does **not** issue to the holder of the certificate and if the firearm certificate to which the training certificate applies expires or is cancelled or revoked, the training certificate also ceases to be in force.

- 1 The Commissioner (who has delegated his functions under this section to a member of the Garda Síochána of superintendent rank), on application and payment of the prescribed fee, may grant to a person over 14 years of age a firearms training certificate. This authorises the person to possess a firearm and ammunition (except a restricted firearm or restricted ammunition) only while:
 - (a) carrying and using the firearm for hunting or target shooting –
 - (i) under the supervision of a specified person over 18 years of age who holds a firearm certificate in respect of it, and
 - (ii) where the firearm is used for target shooting, on the premises of an authorised rifle or pistol club or at an authorised shooting range or other place that stands authorised under sections 2(5) or 2A(b) of this Act.
- 2 Where the applicant is between 14 and 16 years of age, the application for a firearms training certificate shall be accompanied by the written consent of the applicant's parent or guardian.
- 3 Where such an application is refused, the superintendent shall inform the applicant in writing and give the reasons for the refusal.
- 4 A firearms training certificate shall continue in force for a period of 3 years, unless revoked, from the date on which it was granted or for the lifetime of the firearm certificate to which the training certificate is linked (whichever is the shortest).
- 5 The superintendent may revoke a firearms training certificate if of the opinion that the holder is not complying, or has not complied, with the conditions subject to which the certificate was granted.
- 6 The holder of a firearms training certificate who, without reasonable excuse, does not comply with the conditions subject to which the certificate was granted is guilty of an offence.
- 7 It is an offence for the holder of a firearm certificate in respect of the firearm to which the firearms training certificate relates, to permit, without reasonable excuse, the holder of that training certificate to carry or use the firearm while not under his or her supervision.

NOTE: It shall not be lawful for any person to sell a firearm to a person under 18 years of age. Additionally, an application for a firearm certificate, where the applicant is under 18 years of age, shall be accompanied by the written consent of the applicant's parent or guardian. Statutory Instrument No: 493 of 2010 refers.

COMMUNICATION OF THE DECISION ON THE GRANTING OF A FIREARMS CERTIFICATE

Section 3 of the Firearms Act 1925 as amended, provides that a decision on an application for a firearms certificate or its renewal shall be given within 3 months from the date on which the applicant submitted a completed application. However, every effort shall be made by issuing persons to ensure that **all new applications and applications to renew are processed as soon as is practicable**. If a decision on an application is not made within 3 months, then under section 15A of the Firearms Act 1925, as inserted by section 43 of the Criminal Justice Act 2006 this is deemed to be a refusal.

REFUSALS - REASONED DECISIONS

Where an application is refused, the issuing person shall inform the applicant in writing of the refusal and the reason(s) for it. In recent years, the Courts have consistently stressed the importance of an issuing superintendent or chief superintendent to clearly provide a refused applicant with a **REASONED** decision for a refusal, thus affording the person the opportunity to challenge the decision by way of appeal to the District Court.

In simple terms, a refused applicant should be **left in no doubt** as to why his/her application has been refused and a mere recital of the legislation in the refusal letter is not deemed sufficient. A refused person should also be informed of his/her right, within 30 days of receipt of the refusal letter, to appeal the decision to refuse to the District Court.

Issuing persons making a decision should have cognisance of the decision making model which aims to provide a decision making process to enable decision makers to determine, explain, and justify the reasons for their actions. Decision making must comply with the fundamental principles of legality, necessity, proportionality and accountability and be applied in a non-discriminatory manner.

APPEAL DECISION ON THE GRANTING OF A FIREARMS CERTIFICATE

Section 43 of the Criminal Justice Act 2006 inserted a new section 15A into the Firearms Act 1925 and provides for an appeal to the District Court by an aggrieved person within 30 days of receipt of the notice of refusal. Appeals may relate to any of the following decisions. (For a full list see section 15A of the 1925 Act):

- 1 refusal to grant or renew a firearm certificate under section 3 of the Act; or under section 2 of the Firearms Certificates for Non-Residents Act 2000,
- 2 refusal to grant a firearms training certificate under section 2A of the Act,
- 3 refusal to grant or renew an authorisation for a rifle or pistol club or shooting range under section 4A of the Act,
- 4 revoke a firearm certificate under section 5 of the Act,

- 5 refusal to register a person, or renew a registration, in the register of firearms dealers under section 9 or section 11 of the Act,

On appeal, the court may –

- (a) confirm the decision,
- (b) adjourn the proceedings and direct the issuing person to reconsider the decision in the light of the appeal proceedings, or
- (c) allow the appeal.

REVOCATION OF FIREARMS CERTIFICATES AND SALE OR DISPOSAL

Section 35 of the Criminal Justice Act 2006 substitutes a new section for section 5 of the Principal Act.

An issuing person may at any time revoke a firearm certificate if satisfied that the holder of the certificate:

- (a) has not a good reason for having the firearm,
- (b) is a person who cannot, without danger to the public safety or security or the peace, be permitted to possess a firearm,
- (c) is a person declared by the Act to be disentitled to hold a firearm certificate,
- (d) is using the firearm for purposes not authorised by the certificate,
- (e) has not complied with a condition attached to the grant of the certificate,
- (f) has permitted the holder of a training certificate to carry the firearm while not under the certificate holders' supervision.

The reason for revoking a firearm certificate shall be communicated in writing by the issuing person to the holder of the certificate. Again, the person shall be left in no doubt as to the reason(s) for the revocation thus providing the person with the opportunity to challenge the decision in the District Court. Where a firearm certificate is revoked, the issuing person may direct in writing the holder to surrender the firearm or ammunition to the custody of the superintendent of the Garda Síochána of the district where the holder resides, or to another member of the Garda Síochána acting on the superintendent's behalf.

Section 36 of the Criminal Justice Act 2006 amended section 6 of the 1925 Act and legislates for a person who is in possession of a firearm or ammunition having had the certificate for that firearm or ammunition revoked. In this situation the following procedures shall apply:

- (1) that person shall forthwith deliver the firearm or ammunition to the superintendent of the district where the person resides,
- (2) the superintendent shall inform the person in writing of his/her right to dispose of the firearm in any manner not contrary to law,
- (3) if, within 3 months, arrangements have not been carried out for its disposal by the person, the superintendent will inform the person in writing that the firearm will be sold or destroyed within a further period of 1 month. The proceeds will be paid to the person,
- (4) the superintendent may cause the firearm to be destroyed if the firearm has been offered for sale and not sold, or if of the view that it is unlikely to be sold and shall inform the person in writing of such destruction.

CHAPTER 3: CONDITIONS THAT MAY BE CONSIDERED RELEVANT WHEN GRANTING A FIREARM CERTIFICATE AND CASE LAW

Section 4(2)(g) of the Firearms Act 1925 as substituted by section 32 of the Criminal Justice Act 2006, provides that when a firearms certificate is granted it may be subject to a condition or conditions. Furthermore, the case of Joseph Magee v Patrick Murray and Dennis Roche, a judgment delivered by Birmingham J. in the High Court on 24th November 2008, confirmed that the statutory scheme allows a superintendent to impose conditions when granting a firearms certificate under the Firearms Acts.

There are considerable obligations on firearms license holders to ensure that firearms are stored safely and securely, particularly whilst travelling to and from a shoot or hunt. The following conditions may be considered appropriate (although the list is not an exhaustive one) for inclusion by a superintendent or chief superintendent when granting a firearms certificate, but care should be taken to ensure that any conditions imposed are reasonable and balanced:

- The possession and carriage of any licensed firearm or ammunition concealed on the person in public is not permitted at any time.
- In the case of self-loading (semi-automatic) pistols and revolvers, consideration may be given to a requirement to dismantle each firearm when not at the shooting range where it is intended to be used, with some parts held at the range if it has been approved for storage of such firearms.
- During transport, firearms should always be stored in a case/sleeve, out of sight in a locked vehicle boot. They should not be immediately accessible to the driver or any passenger.
- No firearm should be loaded with ammunition while travelling to or from a shoot.
- Where possible, rifle bolts and shotgun fore ends, pistol top slides and magazines should be removed and kept separately.
- That the firearm is never left inside the seating area of a vehicle, whether occupied or unattended.
- If it is necessary to stop and leave the vehicle, reasonable steps should be taken to ensure the safety of the firearm in question. It is good practice to place in the boot and out of sight anything which might indicate that a firearm may be in the vehicle e.g. hunting clothing, stalking stick, hunting knife, binoculars, decoys, hunting hat etc.

POSSESSION, USE, AND CARRIAGE OF A FIREARM OR AMMUNITION WITHOUT DANGER TO THE PUBLIC SAFETY OR TO THE PEACE

The nature of a superintendent's decision making process was addressed in the High Court in the case of Thomas O' Leary vs. Superintendent Michael Maher, a judgement delivered by Clark J. on the 25th April 2008, wherein the Judge stated the following;

'The Firearms Act 1925 indicates that it is the applicant who must be certified as fit by the Superintendent to possess or use a firearm. It is not the firearm itself which is licensed to the owner but rather the owner who is authorised to possess, use and carry the particular firearm. ...The important issue is the applicant's character, the reason why he requires the particular firearm and whether that particular applicant can be permitted to possess, use and carry a firearm or ammunition without danger to the public safety or the peace'.

The nature of a chief superintendent's decision making process (and that of a District Court Judge when hearing a subsequent appeal to refuse the application) was also addressed more recently in the High Court in the case of Patrick Herlihy vs. District Judge David Riordan and Chief Superintendent Michael Finn, a judgement delivered by Kearns J. on 9th July 2010, wherein the Judge stated the following:

'There is no evidence...that the respondent conducted a weighing or a balancing exercise on the merits of the applicant's case, although I do fully acknowledge and appreciate that the respondent heard a great deal of evidence and took great care to ensure that he had full written submissions from both sides before arriving at his eventual decision. Nonetheless, in my view his decision can only be taken as a priori refusal which effectively overrides the applicable legislation in the case of this particular applicant. There was in my view no consideration of the subjective merits advanced by the applicant in support of his application, so that the applicant was left with a refusal related entirely to the calibre and lethality of the weapons without explanation as to why he himself was not a suitable person to whom firearms certificates could be issued.'

In light of these judgments, superintendents and chief superintendents should be mindful of addressing not just the issue of the calibre of the firearm, but must also give adequate weight to the character of the applicant, the reason why the applicant requires the particular firearm and the ability of the applicant to possess, use and carry the particular firearm without danger to the public safety or the peace.

ASSESSING GOOD REASON

This section sets out the issues that a superintendent or chief superintendent may wish to consider in assessing 'good reason' in individual cases. Some of the more common good reasons that the issuing person may consider 'good' for the possession of particular firearms and ammunition are also highlighted.

This guidance is simply illustrative, and cases may be encountered which are not covered here, but which may nonetheless form the basis of a "good reason".

Good Reason for requiring a firearm in respect of which the certificate relates

The case of William Goodison v Superintendent D. J. Sheahan (High Court, 2nd May 2008) is instructive. Peart J. ruled that in relation to 'good reason' a superintendent is entitled to have regard to the particular firearm and the use to which it is intended.

The effect of this judgment means that while the firearm in question can form the basis of considering the application, it is not the sole criteria to be considered, nor can it be the sole reason for refusing the application. The use to which the firearm is to be put is a significant element in deciding whether the applicant has 'good reason'.

Each case ought to be judged on its own individual merits, being mindful of the need to apply the legislation in a fair and equitable manner to all applicants. An intention to acquire a firearm certificate should generally involve a genuine intent to use the firearm on a regular basis.

McCarron Judgement

In the case of McCarron v Superintendent Kearney (High Court, 4th July 2008) an application for a firearms certificate was refused on the basis that the superintendent was not satisfied that the applicant had a 'good reason' for requiring the particular firearm. This decision was challenged by the applicant and the case came on for hearing before Mr. Justice Charleton who refused to quash the decision to refuse the application by the superintendent. In doing so he rejected the argument of the applicant that:

'Once a person who seeks the grant of a firearms certificate applies in good faith to a superintendent, then provided nothing disentitles him from holding a firearm and once he has shown that he has been trained in its use, he must be granted a firearms certificate in respect of the weapon. It is submitted that a superintendent has no discretion in the granting of a firearms certificate, no matter the nature of the lethal weapon for which the licence is being sought'.

The applicant had also argued that the superintendent could not consider questions of public safety considering whether the applicant for a firearms certificate had satisfied the requirement of section 4(a), that is, whether he had a good reason for requiring the particular firearm. Charleton J. also rejected that argument. The Judge said:

'I hold that under the legislation there is a duty on an applicant for a firearms certificate to satisfy a respondent that he or she has a good reason for requiring the firearm in respect of which the certificate is applied for. The specific wording under the Act makes it clear that consideration of public safety, the good order of the community and the proliferation of weapons within a particular district and within the community generally, are all matters which the superintendent of An Garda Síochána can and should take into account ... In general, the more dangerous the weapon, the greater the burden borne by a

person applying for a firearms certificate to show that he or she has good reason for seeking to possess and use that particular weapon. Under the Act, considerations of calibre, ammunition type that may be used, lethal effect or danger over what distance, velocity of the ammunition and the size and shape of the gun and the use to which the weapon may be put are clearly factors of high importance. It was submitted by counsel for the respondent that to replace the requirement in section 4(a) of the Act, with one which simply requires an applicant to apply in good faith, is to remove the legislative purpose whereby an applicant must satisfy a superintendent in the district in which he resides that he has good reason for requiring the particular firearm in respect of which he has sought a certificate, and to replace it with a system whereby there is self-certification for the purpose of licensing lethal weapons. That submission is correct.

... It is not within the legislative scheme to issue a firearms certificate to any individual simply having a genuine desire to hold a particular weapon for sport, no matter what its calibre, the velocity of its projectile or of the special killing potential.'

It is clear, therefore, that the judgement in McCarron is authority for the proposition that a superintendent may consider a broad range of factors and issues when deciding whether an applicant for a firearms certificate has satisfied him/her that he has a 'good reason' for requiring the particular firearm. Those factors include public safety, the good order of the community, the proliferation of weapons, and the dangerousness of the firearm (including considerations of calibre, ammunition type, the lethal effect or danger of shooting distance, velocity of the ammunition, and the size and shape of the firearm and the use to which it might be put).

Charleton J. went on to say that:

'I do not accept that in this case the respondent misconstrued his powers under section 4(a) of the Firearms Act 1925 as amended, rather the decision was one which he was entitled to make.'

Having regard to the above, Clark J. appears to have reached a different conclusion in O'Leary v Maher. The learned Judge appears to have held that a superintendent, when considering section 4(a) can only consider the capacity of the applicant to use the particular gun safely and that the superintendent cannot have regard to the broader safety issues and considerations referred to in McCarron.

In this regard, Charleton J. stated that:

'Insofar as my decision in this regard, differs from that of Peart J. in Goodison v Sheahan, (Unreported 2nd May, 2008 High Court) and of Clarke J. in O' Leary v Maher, (Unreported 25th April, 2008 High Court) I find myself unable to follow those decisions'.

Caution ought to be exercised in dealing with cases where the applicant presents a nominal reason for possessing firearms but may have ulterior motives. Reasonable inquiries ought to be made to verify the applicant's 'good reason' for the possession of

firearms. For example, a desire to simply own a particular type of firearm is not in itself a 'good reason' without further supporting evidence of intentions for its use.

Reasonable inquiries may include a request for written authorities where possible, verification of the likelihood of the quarry species being present; the suitability of land for the firearms requested commensurate with the applicant's experience. Other matters to consider could be the applicant's authority to shoot on the land and, in the case of target shooters, verification of authorised rifle, pistol club or shooting range membership. Membership of a game shooting club may also be a consideration. These are just some examples of the additional information that issuing persons may request from the applicant.

CHAPTER 4: RIFLE AND PISTOL CLUBS AND SHOOTING RANGE

AUTHORISATION OF RIFLE AND PISTOL CLUBS AND SHOOTING RANGES FOR TARGET SHOOTING

Section 33 of the Criminal Justice Act 2006, was commenced on 1st August 2009 and inserted a new section 4A into the principal Act and provides for the authorisation of rifle and pistol clubs and shooting ranges.

NOTE: Section 4(2)(e) of the Firearms Act 1925, as inserted by section 32 of the Criminal Justice Act 2006, has provided that when a person is making an application for a firearms certificate for a rifle or pistol for the purpose of target shooting, that individual **must** be a member of an authorised rifle or pistol club.

Target shooting includes the use of firearms for sport and recreation. Membership of a particular club will generally be the core of the applicant's 'good reason' and the focus of much of their shooting activity. An application for an authorisation for a rifle or pistol club or shooting range shall be made to the Commissioner, who has delegated his functions to the superintendent of the district where the club or range is located. The application shall be made on the prescribed form FRPC1 by an authorised officer of the club or the owner or operator of the shooting range, and shall be accompanied by the prescribed fee of €1,000. Authorisations granted under this section shall remain in force for 5 years unless revoked. The payment process under this section has not been outsourced to An Post. Application forms for these authorisations are available on the Garda website www.garda.ie.

Statutory Instrument No 308 of 2009: Firearms (Authorisation of Civilian Rifle & Pistol Clubs) Regulations 2009, fully sets out the minimum standards to be adhered to by these clubs with regard to security, management, and membership. Statutory Instrument No 622 of 2011: Firearms (Authorisations of Rifle or Pistol Shooting Ranges) Regulations 2011, provides the minimum standards for security, management, membership, and design of shooting ranges.

Section 4A of the Firearms Act 1925, as inserted by section 33 of the Criminal Justice Act 2006, also introduced the requirement for each shooting range to have a firearms range certificate in force, prior to applying to the relevant superintendent for an authorisation under the Act. A firearms range certificate is issued by the Firearms Range Inspector appointed by the Minister and applications for range certification should be made to the Department of Justice and Equality on the appropriate application form, by the owner or operator of the shooting range.

When considering an application for an authorisation for a rifle/pistol club or shooting range under this section, superintendents should be cognisant of section 33 of the Criminal Justice (Miscellaneous Provisions) Act 2009, which introduced a new section 4C into the Firearms Act 1925. Section 4C prohibits and makes it a criminal offence to

engage in ‘*practical or dynamic shooting*’. (except where an authorisation is granted under section 2(5)(a) of the 1925 Act and the muzzle energy is less than 16 joules e.g. paintball markers). The definition of practical or dynamic shooting is: ‘*any form of activity in which firearms are used to simulate combat or combat training*’. A person convicted on indictment of an offence under section 4C is liable to a fine not exceeding €20,000 or imprisonment for a term not exceeding 7 years or both.

Issuing superintendents shall ensure that each rifle and pistol club **and** shooting range authorised under this legislation is created **separately** on PULSE as an *organisation* (the €1,000 fee applies separately to both). A copy of all such authorisations issued under section 4A of the Firearms Act 1925, as inserted by section 33 of the 2006 Act, shall be immediately forwarded to the Firearms Policy Unit Garda Headquarters, who have responsibility for maintaining a register of these clubs and ranges on behalf of the Garda Commissioner. A copy of any revocation of a club or range under this section shall also be forwarded to the Firearms Policy Unit to ensure the register is properly maintained.

NOTE: There is a responsibility on the owner/operator of every authorised shooting range to ensure that they are at all times in possession of an up to date authorisation for the range. Clay pigeon shooting venues and paintball sites are **not** defined as shooting ranges and therefore section 33 only applies to ranges used for rifle and pistol target shooting.

It should be noted however, that paintball markers are defined as firearms under the Firearms Acts and individuals wishing to certify these firearms must undergo the same application process as any other applicant seeking a firearm certificate. These markers will be captured as ‘Other’ on the application form FCA1 under ‘calibre’. Paintball range owners may, on written authorisation by the local superintendent under S.2(4)(d) of the 1925 Firearms Act, hold club markers/guns at the paintball range without certificate. As stated, these ranges will not require certification by the Firearms Range Inspector as they are not defined as shooting ranges under the legislation.

As restricted firearms require certification by a chief superintendent, ‘club/range guns’ authorised by a superintendent, shall now be confined to non-restricted firearms. (See Annex ‘D’ authorisations for further guidance).

PLANNING PERMISSION FOR SHOOTING RANGES

The fact that the planning application process for a shooting range, (requiring authorisation under section 33 of the CJA 2006), has not been finalised should not in itself prevent the application for an authorisation proceeding. However, in the event of an issuing person of the Garda Síochána becoming aware that planning permission for a shooting range has been refused, serious consideration should be given to revoking the authorisation if it has been already granted.

GARDA LIAISON WITH LOCAL GUN CLUBS

The superintendent of each district, or a representative nominated by the superintendent, **shall** meet not less than **twice a year**, with representatives of all gun clubs in their areas to discuss any problems or issues with regard to firearms licensing. These meetings can be mutually beneficial to both the Garda Síochána and the local clubs and are one of the key recommendations contained in the report on firearms by Mr. Justice Barr in 2006.

Individuals who have cited membership of, for example a clay pigeon club or game shooting club as their ‘good reason’ for obtaining a firearm certificate, must be mindful that if they allow their club membership lapse for any period during the lifetime of the certificate, this may constitute grounds for revoking their firearm certificate. If an issuing superintendent becomes aware that the holder of a firearm certificate no longer has ‘good reason’ to continue to license the firearm, serious consideration shall be given to revoking the firearm certificate.

CALIBRES AND MAKES OF FIREARMS AND GUIDANCE AS TO SUITABILITY OF USE

The following information is a guide to the type of firearms that are most suitable for the particular shooting activity they are required for. It is intended to assist issuing persons in understanding why applicants may wish to use particular firearms for different purposes. The list is not exhaustive but may give common guidance to the Garda Síochána and members of the public alike:

SUITABLE FIREARMS FOR TARGET SHOOTING AND CLAY PIGEON SHOOTING – GUIDANCE TO TYPE AND CALIBRE

Rifles

Rifles may be single shot or bolt action of any calibre. There may be cross-over between rifles used for hunting or those for target shooting. However, an issuing person may consider attaching a condition to a firearm certificate restricting use of the firearm to the reason(s) as specified by the applicant when applying for the firearm certificate.

Issuing persons and applicants alike should be mindful that, on 18th September 2015, the Minister for Justice and Equality announced that any new restricted firearm certificates for centre fire semi-automatic rifles, granted between that date and the enactment of proposed legislation banning the future licensing of these types of firearms, shall stand **revoked**.

Pistols

A non-restricted target shooting pistol can be .177 air or .22-inch rim fire calibre. Non restricted pistols may only use magazines that have been manufactured or modified prior to use so as to accommodate no more than five rounds, as provided by Statutory Instrument No: 391 of 2015, as amended.

Restricted short firearms, licensed to individuals who held a firearm certificate for that particular handgun on or before 19th November 2008, may also be licensed for target shooting competitions on suitably authorised ranges.

Shotguns

Shotguns for clay pigeon competitions are generally double-barrelled and of 12 gauge. Pump-action or semi-automatic shotguns are also used; however, shotguns which have prominent pistol grips or folding or telescopic stocks or a magazine capacity which allows more than three (3) cartridges to be loaded in the shotgun are defined as restricted firearms.

When considering applications for shotguns it should be noted that most applications will relate to single barrel, double barrel (both side-by-side and over and under) and semi-automatic models. These are primarily used for vermin control, hunting birds and small animals.

Zeroing of Firearms

Zeroing involves the test firing of a firearm to confirm that the point of aim of the firearm and the point of impact of the fired projectile coincide. It is common practice to zero a rifle and to also zero a short firearm where it has adjustable sights. A firearm which is not "in zero" is a dangerous firearm. Therefore, best practice dictates that a firearm be regularly zeroed to ensure it is safe.

A target shooter tests the zero of a firearm before commencing shooting. A hunter would normally zero a firearm before commencing a stalk. Where possible, an authorised shooting range would be the safest location to carry out a zeroing test. Where this is not possible, it has been the practice to test zero a firearm in an outdoor location. It is vitally important that any such location is a safe distance from occupied buildings and does not pose a risk to the safety of members of the public.

When engaged in zeroing, every person in possession of a licensed firearm shall ensure they maintain clear sight lines from the point of shooting to the target and also that a suitable backstop is in place to prevent any ricochet or stray shots. All firearm owners have an obligation to ensure that the zeroing of firearms is carried out in a responsible manner and the safety of the public is never compromised.

CHAPTER 5: REGISTERED FIREARMS DEALERS AND 'AIRSOFT' – REALISTIC IMITATION FIREARMS

REGISTERED FIREARMS DEALERS

Section 38 of the Criminal Justice Act 2006 amended section 9 of the principal Act of 1925. The registration of a person in the register of firearms dealers continues in force for a period of three years unless revoked. The register is maintained by the Minister for Justice and Equality. Section 39 of the Criminal Justice Act 2006 amended section 10(4) of the principal Act and introduced the category of a restricted firearms dealer. The registration of a person under this section also continues in force for a period of three years unless revoked. Attention is drawn to Statutory Instrument No: 646 of 2017: Firearms (Storage of Firearms and Ammunition by Firearms Dealers) Regulations 2017, signed by the Minister on 21st December 2017. It should be noted that these **Regulations come into operation on 1st February 2019.**

Section 10(1) of the Firearms Act 1925 provides that it is not lawful for any person to manufacture, sell, repair, test, or prove, or expose for sale, or have in his possession for sale, repair, test, or proof, by way of trade or business, any firearm or ammunition unless such person is registered in the register of firearms dealers. Section 12 of the Principal Act requires every registered firearms dealer to keep or cause to be kept a register of all purchases, hiring and sales other transactions and to enter particulars of every transaction in the register within 24 hours. Section 16 of the 1925 Act provides that it is not lawful for any person to consign a) for export from the State, or b) for removal from one place in the State to another such place, any firearm or ammunition, unless such export or removal is authorised in writing by the Superintendent of the Garda Síochána of the district from which such firearm or ammunition is consigned for export or removal.

AIRSOFT – REALISTIC IMITATION FIREARMS

Section 40 of the Criminal Justice (Miscellaneous Provisions) Act 2009 inserted nine new sections after section 9 of the Firearms and Offensive Weapons Act 1990 and provides for the regulation of realistic imitation firearms not exceeding one joule in muzzle energy and therefore not coming under the definition of a firearm in section 1(1) of the Firearms Act 1925 as amended by section 26 of the Criminal Justice Act 2006.

However, **only** sections 9A and 9B were commenced on 1st August 2009. Section 9A makes it an offence for a person, without lawful authority or reasonable excuse, to have a realistic imitation firearm with him or her in any public place. Section 9B provides for a superintendent of any district to authorise in writing the possession, use or carriage of realistic imitation firearms at a specified location in that district for a period not exceeding one year (see Annex 'D' re authorisations). Sections 9C and 9D will provide for the Minister for Justice and Equality to establish and maintain a register of dealers in realistic imitation firearms and make it an offence for a person to import, manufacture, sell, test or repair by way of trade or business any realistic imitation firearm unless registered in the register kept by the Minister.

CHAPTER 6: OVERSEAS USE AND NON RESIDENT APPLICATIONS FOR FIREARMS CERTIFICATES

OVERSEAS USE

Individuals wishing to travel overseas may wish to hunt animals not found in this country and wish to acquire firearms for this purpose. This may include, for example, large or dangerous game animals such as boar, elephant, buffalo, lion, leopard, or plains game such as various species of antelope. Rifles for this purpose may include bolt-action or double-barrelled rifles of various calibres, often very large and of high muzzle energies. These may include .375 H & H Magnum for plains game, calibres between .375 H & H Magnum and .600 for big game and .300 Winchester or greater for bear.

Additionally, the holders of firearm certificates/restricted firearm certificates may travel abroad from time to time to engage in competition shooting with their firearms including restricted pistols and rifles. Issuing persons of the Garda Síochána may be satisfied that applicants intending to use such firearms abroad have 'good reason'. The fact that such visits may be infrequent should not result in an automatic refusal to grant the certificate but may be taken into consideration.

'Zeroing' with non-expanding ammunition may be permitted in Ireland providing a suitable range is available. Some rifles intended for antelope and other plains game may also be suitable for deer, boar or other quarry shooting in this country. Calibres such as the .375 (9.5mm) are at the lower end of those suitable for shooting "dangerous game". Where a shooter experiences difficulties in obtaining "dangerous game" cartridges in the country where that game is to be hunted, arrangements can be made for a dealer to export an appropriate quantity which can be collected by the shooter at the point of embarkation.

EUROPEAN FIREARMS PASS

A European Firearms Pass is provided for in Statutory Instrument No: 362 of 1993. Regulation 9(2)(C) provides that a European Firearms Pass will expire on the expiry of the certificate relating to a firearm identified on the pass or upon the expiry of the pass itself, whichever is the shorter.

A person, resident in this State and being the holder of a firearm certificate, shall be entitled to a European Firearms Pass book issued by the superintendent of the Garda Síochána of the district in which the person resides. The pass which remains in force for up to three years, (to coincide with the three year firearms certificate) is of assistance to Irish shooters wishing to travel overseas. If ammunition limits are to be included in the Pass, then the issuing person shall ensure that those limits directly equate to the amount of ammunition specified in the actual firearm certificate currently on issue to the holder of the European Firearms Pass.

A person not ordinarily resident in this State but from another Member State and wishing to bring a firearm into this country will be required to have in their possession a valid European Firearms Pass. It must be the original as a copy will not be accepted. In

addition to a non-resident firearm certificate (see below), the pass must be carried at all times by the person while in possession of a firearm authorised by the pass. It shall be produced for inspection when requested by any member of the Garda Síochána or any officer of Customs and Excise.

NON RESIDENT

The Firearms (Firearm Certificates for Non-Residents) Act, 2000 as amended by section 67 of the Criminal Justice Act 2006, deals with applications and grants for firearms certificates to persons ordinarily resident outside the State and over 16 years of age. Section 2 of the 2000 Act, as amended by section 42 of the Criminal Justice (Miscellaneous Provisions) Act 2009, provides for a one-year certificate commencing from the date of grant of the firearms certificate and expiring 12 months from that date.

An application for a firearm certificate by a person not ordinarily resident in this State shall be made on a Non Resident Firearm Certificate application form (available on the Garda Síochána website www.garda.ie) and the fee of €40 per firearm shall accompany each application as will the **original** European Firearms Pass book if the applicant is a citizen of a Member State. A copy is not acceptable. The application shall be made to the superintendent of the garda district where the applicant **first** wishes to shoot and the application shall detail the amount of ammunition being applied for. If the application refers to a restricted firearm, then the application will be forwarded to the chief superintendent of that division.

PERMANENT EXPORT OF FIREARMS BY AN IRISH RESIDENT

When a resident of this State wishes to export a firearm, there are various legal requirements depending on the circumstances:

- 1 An individual exporting a firearm to a member state of the European Union should use a Firearms Import/Export Application Form accompanied by a copy of the valid firearms certificate for the firearm and should forward same to: The Firearms, Explosives and Private Security Division, Department of Justice and Equality, 51 St Stephens Green, Dublin 2. **Note:** In cases where there is no current firearm certificate, the individual must apply to the local Garda superintendent for 'An Authorisation for Export or Removal' (it is recommended that the duration of this authorisation by the superintendent should be for a standardised timeframe of **3 months** to ensure adequate time is given to fully process the application) and attach this to the application to the Department who have responsibility for granting the export licence.
- 2 An individual exporting a firearm or ammunition to a country which is not a member of the European Union should apply to Department of Business, Enterprise and Innovation, Kildare St, Dublin 2.

CHAPTER 7: MISCELLANEOUS

AMMUNITION – AMOUNTS SPECIFIED IN FIREARM CERTIFICATES

Section 3 of the Principal Act as amended, provides for the holder of a firearm certificate to purchase ammunition for use in the firearm and at any one time to possess or carry not more than the amount of ammunition specified in the certificate. It is entirely a matter for the issuing person to decide on the amount of ammunition to be specified in the firearm certificate and each application will be judged on its own individual merits. The amount of ammunition granted shall be captured on the firearm certificate. The applicant shall include the maximum amount of ammunition being applied for in the relevant section of the application form FCA1 and further information may be required by the issuing person from the applicant when considering the application. An issuing person may at any time vary the amount of ammunition specified in a firearm certificate, including at the time of renewal.

The type or category of shooting being conducted by the applicant will be a key consideration for an issuing person when determining the amount of ammunition to be specified in the firearm certificate. However, issuing persons should be mindful that ammunition is usually sold in batches of, for example, 20's, 50's or 100's etc. depending on its type and the category of shooting being conducted, and this may be a consideration for an issuing person when assessing the application.

It should be acknowledged that the amount of ammunition specified in a firearm certificate relates to the amount of ammunition that the licensee may possess at any one time. The following ratio of ammunition to purpose may be considered average:

- Farmer/Farming (one shotgun for vermin/pest control) – Up to 200 rounds.
- Deer Stalker rifle – Up to 500 rounds.
- Shotgun for clay pigeon, pheasant/pigeon/woodcock – Up to 750 rounds.
- Target Shooter (member of authorised club) – Up to 1,000 rounds.

CROSSBOWS

Crossbows are defined as restricted firearms and applications for certificates should be considered in accordance with the broader guidelines for restricted firearms i.e. the application will be forwarded to the chief superintendent of the division where the applicant resides. Careful consideration should be given as to the 'good and sufficient reason' nominated by applicants seeking to license crossbows.

SHOOTING OVER LAND

A person wishing to shoot over land must nominate in their application a specific area of land over which they intend to shoot or have permission to shoot or where their game club have permission to shoot. Details of an applicant's membership of a particular game or other gun club can be captured on application form FCA1 in section 4.2 marked 'Other' (specify). Full details can be outlined on the separate sheet as outlined in that section. Written authority from the person entitled to grant the shooting rights must be provided if the Garda superintendent requests him/her to do so. The land may then be examined and approved by the Garda Síochána (if it is not already known to be suitable) to establish that the use of firearms and ammunition will not endanger public safety or the peace – section 4(b) of the Firearms Act, 1925.

Land is not intrinsically 'safe' or 'unsafe' and any shooter will have to exercise a strong measure of discretion in deciding whether or not to shoot in particular circumstances. However, the Garda Síochána will wish to be satisfied as part of assessing 'good reason' that the land nominated is suitable for the types of firearms to be used.

Issues which may be relevant when considering an application can include any of the following:

- (a) Presence of rights of way, public roads and footpaths and their frequency of use,
- (b) Proximity of dwellings,
- (c) Suitable backstops relevant to the firearm to be used,
- (d) General topography of the land, and
- (e) Presence of any quarry species on the land

While 'good reason' to possess particular firearms may be linked to the quarry species found on the land concerned, for example on a farm or estate, conditions for the possession of such firearms should allow the certificate holder to deal with reasonable eventualities, for example pest or game species or the humane destruction of injured animals on a farm.

SHOOTING SMALL QUARRY SPECIES, INCLUDING GAME AND PEST SPECIES

The term 'game' covers certain birds and animals that may be shot for food and sport. Apart from deer which are dealt with below, these may include rabbit, hare, pheasant, partridge, grouse, woodcock and other game birds. Species that are destructive to some farming and hunting activities may include animals such as fox, rabbit, mink, stoat, brown rat, and grey squirrel, as well as some birds such as wood pigeon, rook and crow.

Purchase of Shooting

'Good reason' may be satisfied by those people who are not members of clubs and do not have landowner permission, but who regularly purchase shooting days for example on the many managed estates such as Coillte, or at commercial clay shooting ranges by providing evidence of the purchase of this type of shooting.

Humane Killing of Animals

The humane killing of sick or injured animals with a firearm is normally confined to those who may deal with such animals on a fairly regular basis. Examples would include veterinary surgeons, ISPCA inspectors, hunt servants, and occupiers of farms and smallholdings. These firearms require a firearm certificate and will be captured on the application form as 'Other'.

A .32 single shot revolver such as the 'Cashman' may be considered suitable in most circumstances as a slaughtering instrument, though larger calibres may be considered if the applicant has to deal regularly with large or dangerous animals (for example, horses, cattle or larger deer species). Sound moderators for pistols are generally necessary only for veterinary surgeons working at racecourses. Conventional handguns may not be considered as suitable for humane dispatch as the slaughtering instrument outlined above.

Other Animals

Authority may be requested to shoot animals which fall outside the scope of usual types of game or vermin, for example, feral goat or wild boar and the normal requirements with regard to shooting over land will apply.

Deer

The shooting of deer is governed by the Wildlife Act, 1976-2000. Red Deer are protected mammals under section 23 of the Wildlife Acts. An applicant who wishes to shoot deer must name land which has the likelihood of the appropriate deer species being present, and an invitation, booking or authority to shoot on that land from the owner/occupier.

Fox

The shooting of foxes at night time with the aid of a lamp is not unlawful provided it can be done with the permission of the landowner and it does not occur within 60 feet of the public road. A condition which may be considered appropriate to the licensing of a centre fire high powered rifle for fox shooting could be that An Garda Síochána are notified of any shooting taking place after dark.

Slaughtering

The slaughter of animals for human consumption will often be carried out using captive-bolt instruments that are considered "firearms" for legal purposes. However, under section 2 of the Firearms Act, 1925, neither an authorisation nor a firearms certificate is required to possess and acquire a bullet-free slaughtering instrument. This exemption only applies in the following circumstances; proprietors of slaughterhouses, knackers, butchers, or other persons engaged in the business of the humane slaughter of animals.

THEATRICAL PERFORMANCES

Under section 2 of the Firearms Act 1925, the possession, use or carriage of a firearm or ammunition by a person taking part in a theatrical performance or rehearsal or in the production of a film, requires an authorisation. This may be granted by the local superintendent of the district where such performance(s) take place.

TREATING ANIMALS

Under section 1 of the Firearms Act, 1925 as amended, tranquillising equipment such as dart guns and blowpipes are normally considered to be prohibited weapons. However, the possession of these firearms and ammunition may be considered 'good reason' when authorised in connection with the treatment of animals. Authority to possess such firearms by an issuing person should normally be granted to those who have a professional need for such in the line of their work. Examples of this would be Deer farmers and Zoo staff.

COLLECTORS

Antique firearms are exempt from the provisions of the Firearms Acts provided they are held as ornaments or curiosities. In the absence of a definition for an 'antique' firearm, Ballistics section at Garda H.Q. applies the 'Pre Unitary Cartridge' rule which appears to conform to international standards. Unitary cartridge ammunition consists of a cartridge - usually metal which contains the primer - the propellant and the bullet within it. Modern reproductions of antique firearms are not exempt from firearms legislation.

Some people will occasionally wish to purchase an old or antique firearm, or one which is valuable because of its historical significance, for no reason other than as an investment. This may sometimes be regarded as 'good reason' having regard to all the circumstances, and if capable of being fired, these firearms will require a firearms certificate.

FIREARMS FOR PERSONAL PROTECTION

The protection of life and property is a function of the Garda Síochána and civilians are only entitled to use reasonable force to protect themselves and their property. The combined effect of this means that there is no justification for seeking to possess a firearm for purposes of personal protection or protection of property. When assessing an application for a firearm certificate, a superintendent or chief superintendent should not take into account as part of a 'good reason' a reference to personal protection. An issuing person should be satisfied that the good reason put forward by the applicant is genuine and no ulterior motive to possess the particular firearm exists.

HUNTING

Rifles – Deer Hunting

These rifles are normally single shot or bolt action rifles between .243 inch (6mm) and .308 inch (7.6mm) inch calibres inclusive. Their magazine capacity is normally small i.e. less than 5 rounds. Assault type rifles are no more effective for deer hunting than single shot or bolt action rifles. Great care should be taken by issuing persons to ensure that **only the correct calibre rifles**, above .2250-inch (5.7mm) calibre, are licensed for killing deer as smaller calibres are not powerful enough for this purpose and may result in unnecessary suffering being inflicted on the species.

Rifles – Fox culling

Centre fire rifles of calibres .220 (5.6mm) inch or .223 (5.7mm) inch have become popular for fox control. Their safe use requires a greater degree of skill and responsibility by the shooter. Rifles such as these are more suited to highland areas where natural hill backstops are easier to find. Their use in lowland areas or at night may present added danger to the public or livestock. Shooting foxes is not a sport and therefore their culling in areas where their activities are not interfering with farming may not be a 'good reason' to possess a firearm for that purpose. Centre-fire rifles used for fox culling are usually bolt-action hunting type rifles.

Rifles - Rabbits etc.

Single shot bolt-action or semi-automatic rifles of .22-inch (5.5mm) rim fire calibres (.22-inch-long and .22-inch-long rifle) are the most suitable types of rifles used to shoot rabbits.

ANNEX A: PERSONS DISENTITLED TO HOLD A FIREARM

Persons disentitled, by section 8 of the Firearms Act 1925 as amended by section 37 of the Criminal Justice Act 2006, to hold a firearm certificate include the following:

- (a) Any person under the age of 16 years.

It shall not be lawful for any person to sell a firearm to a person under 18 years of age even though the person may actually licence the firearm if he/she is over 16 years of age. However, an application for a firearm certificate, where the applicant is under 18 years of age, shall be accompanied by the written consent of the applicant's parent or guardian. Statutory Instrument No: 493 of 2010 refers.

- (b) Any person of intemperate habits -

When making a decision whether to grant or renew a firearm certificate, a superintendent or chief superintendent of the Garda Síochána may take into account information available about the individual's consumption of alcohol or other such substances such as drugs which could interfere with their ability to safely possess and use a firearm. Each case will have to be assessed on its own merits and individual circumstances.

Usually though, a pattern of behaviour would need to exist which causes concern, but this is not to rule out a one-off incident which may bring into question the fitness of somebody to possess firearms. Of assistance may be the English case of Lubbock v Chief Constable of Lothian and Borders (2001) wherein the sheriff ruled that the revocation of a firearms and shotgun certificate following one isolated drink driving incident was justified given the individual's general attitude towards the offence.

Other factors which may aid a decision on persons of intemperate habits may include evidence of aggressive or anti-social behavior which may include domestic disputes or evidence of hostility likely to lead to violence. Again, an assessment will need to be made on each particular case, particularly as regards the seriousness of individual incidents.

Factors such as evidence of disturbing and unusual behavior of a kind which gives rise to well-founded fears about whether the individual will be able to safely manage the firearm may also be significant. A pattern of behaviour should generally be regarded more seriously than a single incident, although isolated incidents should not be disregarded in the assessment of the person concerned and their fitness to possess a firearm. (When making a decision whether to grant or renew a firearm certificate, a superintendent or chief superintendent of the Garda Síochána may make reference to whether they reasonably believe the individual's consumption of alcohol or other such substances such as drugs would interfere with their ability to safely possess and use a firearm).

(c) Any person of unsound mind -

This is a very sensitive issue and it is not possible to advise on every potential scenario which may arise in a decision making process. Generally, issuing persons should be alert to cases in which a general practitioner's report reveals that an applicant has exhibited, or is exhibiting, signs of depression, suicidal tendencies, longstanding or intermittent periods of either emotional instability or unpredictable behavior. Issuing persons should also be alert to any of these signs exhibited by existing certificate holders.

This would include persons who had been detained under the civil powers of the Mental Health Acts on the basis of their behaviour posing a risk to the public. It should be remembered that because a person has received treatment in the past for certain illnesses or conditions, such as depression or stress, it does not automatically follow they are unfit to possess a firearm. It is simply one of the factors to be considered with all other evidence relating to the applicant's character and history. In such cases, account should be taken of the latest medical opinion.

(d) Any person who has been sentenced to imprisonment for –

(i) An offence under the Firearms Acts, 1925 to 2009, the Offences Against the State Acts, 1939 to 1998 or the Criminal Justice (Terrorist Offences) Act, 2005, or

(ii) An offence under the law of another State involving the production or use of a firearm and the sentence has not expired or it expired within the previous five years.

(e) Any person who is bound by a recognisance to keep the peace or be of good behaviour, a condition of which is that the person shall not possess, use or carry any firearm or ammunition, and

(f) Any person not ordinarily resident in the State (except a person who is temporarily so resident) for a period of six months before applying for a firearm certificate.

ANNEX B: MEDICAL ENQUIRIES AND REFEREES

CONSENT TO MEDICAL ENQUIRIES

The issue of an applicant's medical fitness to hold a firearm certificate is a key consideration for the Garda Síochána, but it must be emphasised that this will not be a concern with regard to the vast majority of firearms licence holders. Approaches to an applicant's general practitioner or other medical practitioner should not be made as a matter of routine but are at the discretion of the superintendent or chief superintendent considering the application. **It is an offence under section 3A of the Firearms Act, 1925 as amended, for a person to knowingly give false or misleading information in relation to an application for a firearms certificate.** This would apply to any false statement given when answering medical questions on the application form. It must be emphasised that it is the responsibility of the applicant to provide all relevant medical reports if requested to do so by an issuing superintendent or chief superintendent carrying out their functions under this section.

The issuing superintendent or chief superintendent of the Garda Síochána may seek the advice of the Garda Síochána Medical Officer in cases where the medical information supplied is difficult to understand, or where its significance in terms of the possession of firearms is unclear. Any final decision as to the applicant's fitness, whether on medical or other grounds, should be taken by the properly authorised officer in the usual way.

The applicant's consent is not limited by time. It is therefore open to the Garda Síochána to approach the applicant's general practitioner or other medical professional at any time during the lifetime of the certificate if there are any concerns about the applicant's continued fitness to possess firearms.

INFORMATION REGARDING REFEREES

The judgement as to whether a person is fit to be entrusted with firearms rests in law with the Garda Síochána or, on appeal, the Courts. It is the function of the referee to provide information and opinions that the Garda Síochána can take into account when making that judgement. Referees should be responsible adults and it is best they reside in the State. As two referees are required, it may be appropriate to differentiate in the nature of their knowledge of the applicant e.g. one referee who has an intimate knowledge of the applicant such as a close relative and the other a person who, while knowing the applicant for example in a social or work context for over five years, is not a relative. In the case of an applicant who has not resided in the State for a considerable time, a referee who is able to demonstrate knowledge of the applicant and who is acceptable to the Garda Síochána will suffice. A referee must be of good character and shall be **independent** of the certifying process.

It is important to ensure that each referee has an adequate knowledge of the applicant e.g. the referee has had regular contact, whether in a professional, business or social context, with an applicant for approximately five years. Referees need not, of course, have any

knowledge of firearms or shooting sports, but they should be able to comment on the applicant's general character and background and an issuing person may consider that a referee should be over 18 years of age.

It is open to the Garda Síochána to contact any nominated referee to discuss information provided on the reference form or on any other matter relating to the application. If an issuing person considers that a referee is unsatisfactory, the applicant may be invited to nominate an alternative person to act as a referee e.g. a person might satisfy the requirements to act as a referee but may be found to not know the applicant well enough to provide an informed reference.

ANNEX C: SECURE STORAGE OF FIREARMS

SECURE STORAGE OF LEGALLY HELD FIREARMS

One of the main objectives of imposing conditions, when granting certificates for firearms, is to ensure their safe custody at all times. In the interests of public safety or the peace, a superintendent or chief superintendent may attach any such reasonable conditions as that issuing person deems necessary.

The type and number of firearms held by an individual will require different levels of security. In general, however, all firearms should be stored within structurally solid buildings, purpose built firearm security cabinets or gun rooms. Under no circumstances should firearms or ammunition be left, even for short periods of time, in temporary dwellings (tents, caravans etc.) or unattended vehicles as these are not secure.

Attention is drawn to Statutory Instrument No: 307 of 2009: Firearms (Secure Accommodation) Order, 2009, which defines the **minimum** security required for the storage of firearms. As is evident from this S.I. there is not an automatic requirement for a holder of one non restricted shotgun to provide a gun safe for their firearm, but a superintendent may attach that condition if of the view that, in the circumstances of an individual case, it is necessary in the interests of public safety and the peace. The Statutory Instrument stipulates:

- (1) One non-restricted shotgun: The shotgun shall be **disassembled** and each part shall be stored securely and separately when not in use. The trigger housing shall be secured against use with an appropriate **trigger lock**.
- (2) One restricted firearm, or three or fewer non-restricted firearms: Each firearm shall be stored securely in a gun safe which meets standard BS 7558 and which shall be securely fixed to a solid structure.
- (3) Two restricted firearms, or, more than three non-restricted firearms: Each firearm shall be stored in a gun safe which meets standard BS 7558 and which shall be securely fixed to a solid structure. The place in which the firearms are stored shall have an alarm fitted and the external doors to the place shall be fitted with locks which comply with BS 3621.
- (4) Three or more restricted firearms or six or more firearms, of any type, kept in the same place: In addition to the standards specified at reference number 3, the place in which the firearms are stored shall have an intruder alarm system, installed and maintained by installers licensed by the Private Security Authority which complies with I.S. EN 50131 or an equivalent standard approved by the Commissioner of the Garda Síochána.
The alarm shall be connected to a monitoring service, operated by a person licensed by the Private Security Authority and supported with GSM mobile telephone service back up signalling facilities.

JOINT OWNERSHIP OR JOINT LICENSING

Where a firearm is subject to joint ownership, or where two or more individuals hold certificates for the same firearm, then the same conditions and requirements that apply to single ownership will apply to both owners and certificate holders if they each intend to store the firearm. This means, for example, that the issuing person will have to be satisfied that secure storage is provided at each dwelling or other place where the firearm is to be kept.

A superintendent or chief superintendent may impose any conditions deemed necessary in the interests of public safety in the usual way, taking into account the circumstances of each of the joint owners or certificate applicants.

ANNEX D: AUTHORISATIONS UNDER FIREARMS ACTS

AUTHORISATIONS

A Garda superintendent may grant an authorisation under the Firearms Acts 1925 to 2009, for the possession, use or carriage of a firearm or ammunition in certain listed circumstances. Particular attention is drawn to Section 2(4) of the Firearms Act, 1925 as amended. This outlines the circumstances where a superintendent may issue authorisations for such occasions or events as outlined in the section. These include Paintball sites, shooting galleries, theatrical performances, and the starting of athletic races etc. Section 2(4)(d) of the 1925 Act may be utilised by a superintendent to authorise the likes of pony club and pentathlon events. These authorisations remain in force for a period or periods not exceeding one year and the issuing person may attach any conditions he/she deems necessary to ensure that granting the authorisation will not endanger the public safety or the peace.

Section 9B of the Firearms and Offensive Weapons Act 1990, as inserted by section 40 of the Criminal Justice (Miscellaneous Provisions) Act 2009, provides for a superintendent to authorise in writing the possession, use and carriage of realistic imitation firearms – known as ‘Airsoft’- at a specific location, again for a period or periods not exceeding one year. The superintendent must be satisfied that this authorisation will not endanger the public safety or the peace and can impose any conditions, to be specified in the authorisation, considered necessary to prevent a danger to the public.

DEACTIVATED FIREARMS

Deactivated firearms, not capable of being fired, may be kept on the written authorisation of the local superintendent under section 6 of the Firearms and Offensive Weapons Act 1990, as amended. Attention is drawn to EU Regulation 2015/2403, which came into effect on 8th April 2016. It should be noted that this Regulation has been amended with the updated methods for deactivation taking effect from 20th June 2018. The regulation now requires that deactivated firearms must firstly be deactivated according to minimum technical standards **prior** to an applicant applying to his/her local superintendent for an authorisation under S.6 of the 1990 Act. In simple terms, all firearms deactivated after 8th April 2016 with the intention of being held on authorisation, must now comply with the terms of EU Regulation 2015/2403, which include the firearm being deactivated to minimum standards, being marked with a common unique marking and the firearm accompanied by a deactivation certificate issued by a ‘verifying authority’.

NOTE: These new measures do **not** apply to firearms previously deactivated prior to 8th April 2016 and authorised under S.6 of the 1990 Act, unless they are placed on the open market or change ownership after 8th April 2016.

CLUB/RANGE GUNS

Section 4A of the Firearms Act 1925, as inserted by section 33 of the Criminal Justice Act 2006, requires all rifle and pistol clubs and shooting ranges to be authorised by the local superintendent. A situation has previously evolved whereby some superintendents have permitted the holding of 'club/range guns' without certificate by clubs and ranges under their range or club authorisation. All rifle and pistol club and range authorisations are granted under section 4A of the 1925 Act as previously outlined. Furthermore, under section 2(6) of the Firearms Act 1925 as amended by section 26 of the Criminal Justice (Miscellaneous Provisions) Act 2009, 'club/range guns' shall **not** be restricted firearms. Issuing superintendents should be mindful of ensuring that adequate security arrangements are in place for the safe storage of such firearms at a shooting range or other suitable location.

SILENCERS/MODERATORS/TELESCOPIC SIGHTS – GUIDANCE AS TO THEIR USE

SILENCERS

Under section 1 of The Firearms Act 1925 as amended by section 26 Criminal Justice Act 2006, silencers are defined as firearms. Statutory Instrument No: 21 of 2008: Firearms (Restricted Firearms and Ammunition) Order 2008, as amended, defines silencers as:

'Any devices fitted or capable of being fitted to the firearms for the purpose of moderating or reducing the sound made on their discharge'.

Silencers will not ordinarily be subject to certification. However, under section 7 of the Firearms and Offensive Weapons Act 1990, a silencer must be authorised by a superintendent of the Garda Síochána provided the applicant is in possession of a firearms certificate for the firearm to which it is to be fitted and has demonstrated to the issuing person 'good reason' to acquire the silencer.

Applications for the authorisation of silencers for non-restricted firearms are made to the superintendent of the district where the applicant resides. The Garda Commissioner, under section 25C of the Firearms Act 1925, has delegated his functions with regard to restricted firearms to members of chief superintendent rank. Accordingly, in the event of an application for a silencer that is defined as a restricted firearm, this application shall be made to the chief superintendent of that division and the silencer will require certification. When a silencer has been authorised for a particular firearm, this should be documented on the firearms certificate and captured by the inclusion of 'S' on the credit card type firearm certificate.

Silencers are designed to reduce the *report* of the firearm so as to conceal the position of the shooter, and also to reduce the recoil. Silencers have traditionally been used on rim fire rifles of .22 calibres when, for example, shooting rabbits. This allows the shooter to shoot other animals who are not alarmed by the low *report* of the rifle. This justification

may not apply in the case of the shooting of other less numerous and less sociable animals such as foxes.

The use of silencers on deer hunting rifles has become increasingly popular in recent times. The advantages of using a silencer for this purpose would include the reduction in recoil allowing the shooter to stay on target and reduce the risk of flinching to prevent the group of animals fleeing after the initial shot. However, these advantages must be balanced against the safety of other people (other shooters, walkers, foresters, farmers) having available to them the clear audible *report* (rather than a significantly lower report when a silencer is fitted) of a rifle, thereby providing a general direction of where possible danger lies.

There has also been an increase in the desire of shooters to use silencers on rifles at authorised shooting ranges for target practice. The only advantage here would be in reducing 'noise pollution'. As suitable ear protectors can be worn to provide adequate protection against the noise of discharge from multiple rifles, it is necessary to weigh the disadvantages of the use of a silencer against this benefit. Ultimately, it is a matter for the issuing person to satisfy him/herself that each applicant has demonstrated 'good reason' when seeking an authorisation for a silencer for their firearm.

TELESCOPIC SIGHTS

In the Firearms Act 1925 to 2009, the definition of a firearm additionally includes: '*telescopic sights with a light beam, or telescope sights with an electronic amplification device or an infra-red device, designed to be fitted to a firearm*' Such devices would fall into three broad categories as follows and again an applicant must satisfy the issuing person that he/she has demonstrated 'good reason' to acquire the sight:

- (i) An Active Night Sight – this device emits an invisible light beam which illuminates objects and would assist with identification of objects.
- (ii) A Passive Night Sight – this device does not emit any beam but amplifies any ambient light (from stars or moon) which enables objects to be distinguished and identified.
- (iii) Thermal Image Sight – this device resolves the heat signature given off by warm objects and enables identification of objects.

When an applicant is applying for a firearm certificate or its renewal, the application should include whether or not a silencer or telescopic sights are sought for that particular firearm. A **subsequent** application for a silencer or telescopic sight will require the applicant to re-apply on a new application form FCA1 and will require the full €80 fee if the application is successful. So it is vitally important, that where applicable, new applicants or applicants applying to renew their firearm certificates ensure that their application/renewal form includes reference to a silencer/telescopic sight. All firearm certificates which include authorisation to hold a silencer, must include details of the authorisation for the silencer in respect of the firearm by inclusion of the letter 'S' on the firearms card.

ANNEX E: SUBSTITUTIONS & DISPOSAL OF FIREARMS

SUBSTITUTIONS

Section 11 of the 1964 Firearms Act as amended, provides for the substitution of firearm certificates, both restricted and non-restricted. Traditionally, applications made to the Garda Síochána to substitute one firearm for another were made on a 'like for like' basis with the intention of accommodating owners of firearms to swap a similar make and model firearm in circumstances where, for example, the original firearm was broken or no longer in working order.

It should be noted however that an issuing person has discretion and every application to substitute one firearm for another is considered on its own individual merits. Ordinarily, the process should be completed by the Garda Síochána in a reasonable time frame of 14 days but can take longer if the issuing person decides further enquiries are deemed necessary with regard to the application. However, issuing **superintendents shall ensure that no unnecessary delays occur** in circumstances where the application is to simply substitute one firearm for another with no material changes.

When assessing an application to substitute, an issuing person should be satisfied that the applicant's 'good reason' for possessing the firearm has not fundamentally changed since the original grant of the certificate. For example, substituting one firearm for another is allowable provided the applicant does not intend shooting deer instead of say species that are destructive to farming or hunting activities. As stated, the 'good reason' must remain fundamentally the same as in the original grant. If the 'good reason' has fundamentally changed then a new application will be required.

An application to substitute a firearm is made on the ordinary application form FCA1 and will **not** require a fee. In this situation, the applicant is **not** required to undergo the entire application process again e.g. medical enquires, referees etc. (unless different to the original application). It should be noted that the original firearm certificate will cease to be in force but should only be destroyed by the holder following receipt of the newly amended firearm certificate carrying the details of the new firearm. In the case of applications to substitute a restricted short firearm (handgun), the application may be considered during the lifetime of that certificate. However, following the expiry of the restricted firearm certificate, applicants should be mindful that the new firearm may not be renewable unless the applicant held a firearm certificate for that firearm on or before 19th November 2008.

NOTE: To assist applicants and issuing persons alike, it is requested that an application to substitute one firearm for another not be made (unless urgent) during the 3-month period prior to the expiry date of the existing firearm certificate. In that situation, each applicant should be advised to firstly renew their existing firearm certificate and following the conclusion of that process, to then apply for the substitution. This will ensure that two different applications (renewal and substitution) in relation to the same certificate are not entered on the PULSE system at the same time.

CANCEL/AMEND

To cancel a firearm certificate: form FCA2 should be used. This form is only to be used in circumstances such as when a firearm is sold, permanently surrendered or otherwise disposed of or where, for example, the holder of the firearm certificate is deceased. Amending a certificate could be for reasons such as typing errors, change of address etc. The FCA2 form is not to be used when substituting one firearm for another.

SPARE/REPLACEMENT BARREL

A spare or replacement barrel for a firearm will not require a separate firearms certificate, provided it is of the same calibre. But if an applicant requires a spare or replacement barrel for a firearm which would result in a change of calibre to the firearm, then a separate firearms certificate will be required and will be subject to the normal €80 fee required for a firearm certificate.

DESTRUCTION OF UNWANTED FIREARMS IN POSSESSION OF THE GARDA SÍOCHÁNA

Prior to the Garda Síochána accepting the handover of any firearm or ammunition by any person, consent of the owner of the firearm/ammunition should first be obtained in writing. In the normal course of events, this will be obtained from the person who was granted a firearm certificate in relation to the unwanted firearm. A disclaimer form is also available at Garda Stations which is signed by the firearm owner acknowledging that he/she is giving up the firearm for permanent destruction. The form is also available to members of An Garda Síochána on the Garda Portal.

However, situations may arise where firearms or ammunition are being handed over to the Garda Síochána by relatives of a deceased, infirm or hospitalised person who may have previously held the firearm and where the firearm is no longer wanted by the person or their family. In such circumstances it is vitally important that the Garda Síochána are satisfied that the person handing over the firearm has acknowledged in writing that they are handing over permanent ownership of the firearm or ammunition and that they have the authority of the owner to do so.

Where a firearm is handed over to the Garda Síochána for destruction, this destruction shall be carried out as soon as is practicable by a registered firearms dealer or other authorised person and supervised by a member of the Garda Síochána. It is vitally important that the details are recorded and updated on PULSE so that proper records are maintained in relation to every firearm. When a firearm has subsequently been destroyed, the person who had handed over the firearm to the Garda Síochána should be informed in writing of the destruction.

In circumstances where a person is refused an application for firearm certificate or its renewal but retains possession of the firearm, that firearm must be either handed over to the Garda Síochána or surrendered to a registered firearms dealer. If a person subsequently decides to appeal, (under section 15A of Firearms Act 1925 as inserted by section 43 of the Criminal Justice Act 2006), a decision of an issuing person to refuse to

grant a firearms certificate or its renewal, the firearm must be handed over to a registered firearms dealer as outlined for storage pending that appeal. Failure to do so may result in that person being in possession of an unlicensed firearm.

Where a firearms licence holder hands a firearm into a registered firearms dealer for the purpose of sale and export abroad, the owner should notify the local firearms officer or other member of the Garda Síochána of this fact and records should be updated on the PULSE system.

CONCLUSION

These guidelines explore issues surrounding applications for firearm certificates and renewals and authorisations issued under the legislation, as currently in force. As further legislation pertaining to firearms licensing is commenced, the guidelines will necessarily be updated and amended to take account of any new and relevant case law.

As already highlighted, this document is a 'Best Practice' document which chief superintendents and superintendents shall have recourse to when considering applications for firearms certificates within their respective Divisions or Districts, and is viewed as an aid to the implementation of the Firearms Acts.