

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.**

(Issued on 12th November 2014)

Foreword

Section 31 of the Criminal Justice Act 2006 (which inserted a new section 3A into the Firearms Act, 1925) as amended by section 29 of the Criminal Justice (Miscellaneous Provisions) Act 2009 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.

Part 5 of the Criminal Justice Act, 2006 provides a wide range of amendments to the Firearms Acts to strengthen the law governing the control of firearms. It addresses such matters as the new firearm certification process, the authorisation of rifle and pistol clubs and shooting ranges and the registration of firearms dealers.

These Guidelines are intended 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, in particular the new sections as outlined below.

As of necessity these guidelines will be subject to further amending and updating as appropriate so as to keep abreast of the legislative provisions as and when commenced as well as emerging case law.

This document is a 'Best Practice' document which Chief Superintendents and Superintendents may have recourse to when considering applications for Firearms Certificates within their respective Divisions or Districts, and as an aid to the implementation of the Firearms Acts 1925-2009. Chief Superintendents and Superintendents should ensure however, that the members under their control are fully aware of the contents of this document.

I am particularly grateful to the staff of the Firearms Policy Unit, advised by the Legal Section, Crime Policy & Administration, Garda Headquarters for their expertise, knowledge and skill in compiling this document.



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COMMISSIONER OF AN GARDA Síochána

12th November 2014

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 have recently been enacted, in particular, 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 in recent years. The 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.

In its operation of the firearms licensing legislation, the Garda Síochána will have regard to the need to fulfil its Human Rights obligations. These obligations extend to individual applicants and the wider community alike.

It must be stressed 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, the recently enacted legislation contained in the Criminal Justice Act, 2006 and the Criminal Justice (Miscellaneous Provisions) Act, 2009. 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, Equality and Law Reform 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. 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. 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, Equality and Law Reform is primarily responsible for the import and export of firearms and ammunition and maintaining the register of firearms dealers.

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 areas and they will continue to act as *personae designatae* under the Firearms Acts 1925 to 2009. Each case 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 be the sale or disposal of the firearm or a change of address of the holder etc.

These Guidelines are intended to set out in practical terms how matters such as the phased application of the new legislation will be applied, as well as explaining the considerations which Superintendents and Chief Superintendents may take into account in the application of the Firearms Acts.

TRANSITION PERIOD AND EXTENSION OF FIREARMS CERTIFICATES

Section 28 of the Criminal Justice (Miscellaneous Provisions) Act, 2009 introduced legislation for the purpose of continuing in force on a phased basis, all firearms certificates that would otherwise have expired on 31st July 2009. The Commissioner of the Garda Síochána designated a prescribed number of groups of such firearms certificates selected randomly by him. The extensions were for a minimum of 3 months and a maximum of 11 months duration.

The final batch of extended one year firearm certificates expired on 30th June 2010. The Commissioner notified, in writing, the holders of such firearm certificates of their prescribed date of expiry and invited each such holder to apply for a new 3 year firearm certificate 3 months prior to the date of expiry of the extended certificate.

One of the main effects of the staggered application process is that in future all 3 year firearms certificates will not expire on 31st July as was previously the case. This will be mutually beneficial to both the Garda Síochána and to all firearms owners as the process of licensing firearms will now be ongoing throughout the year.

NOTE: As and from 21st October 2009, the Garda Commissioner has decided to allow those who have been issued with an extension letter for their existing firearm certificate to substitute their existing firearm for a new firearm. This will be on a 'like for like' basis for the duration of their extension period only.

On receipt of an application for substitution, District Officers shall ensure the following procedures are complied with;

- The extension letter, specific to the firearm, issued by the Commissioner should be amended with the details of any new firearm;
- The form FCA2 must be completed in full with details of the cancelled firearm and details of the new firearm.
- The completed form FCA2 should be immediately forwarded to the Firearms Computer Section at Garda H.Q. in order to amend the appropriate PULSE record.

Each district and divisional officer should be mindful that the transition period - and in particular - 1st November 2009 to 30th June 2010 will have a significant impact on resources as all existing licences (approx 240,000) shall now be applied for under the new legislation and will be regarded as new applications.

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 for - on the 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 website www.garda.ie and the cost of each new 3 year certificate is €80.

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) substitutes 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 licensing restricted firearms to chief superintendents of the Garda Síochána. If the application relates to a restricted firearm certificate, the superintendent of that district shall then forward the application 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 a recently taken passport size photograph 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 to the superintendent or chief superintendent (if the application refers to a restricted firearm). All applications will 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 at the station. Applicants will be informed that additional information may be required of them. **NOTE:** The relevant fee is not to accompany the application. Fees have been outsourced to An Post and are not payable until the firearm certificate has been granted by the issuing person and the applicant informed in writing of such grant.

An application to substitute a firearm – on a 'like for like' – basis will not require a fee and shall also be made on the normal application form FCA1 by ticking the 'Substitution' box. Further photographs, referees, medical details etc are not required when applying to substitute a firearm on. However, 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: 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 under section 29(1) of the Wildlife Act, 1976.

A firearm certificate which is in force shall continue in force for a period of 3 years from the date on which it was granted, unless revoked, and for any such period for which it may be renewed. The holder of a firearm certificate may apply for the renewal of the certificate 3 months prior to the date it ceases to be in force.

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 in 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.

RESTRICTED OR NON RESTRICTED FIREARM?

Attention is drawn to Statutory Instrument No: 337 of 2009: Firearms (Restricted Firearms and Ammunition) (Amendment) Order which amends Statutory Instrument No: 21 of 2008. This S.I. has declared certain firearms to be non restricted and certain types of ammunition to be restricted. The S.I provides that these Olympic standard target pistols shall have a magazine capacity of no more than 5 rounds and the barrel shall not be less than 10cm in length. Applications for a firearms certificate for these short firearms shall continue to be made to the local superintendent and will be considered under the new legislation.

Under the legislation any handgun not coming under the definition as specified in the S.I. is now defined as a restricted firearm. No new applications shall be considered for these restricted short firearms (other than for a short firearm for which the applicant held a firearm certificate for it on or before 19th November 2008) following the commencement of section 30 of the Criminal Justice (Miscellaneous Provisions Act) 2009.

In brief, any centre-fire rifle over .308 inch (7.62mm) calibre or centre-fire rifle whose overall length is less than 90 centimetres will come into the restricted firearm category. Additionally, a shotgun that can hold more than 3 cartridges (unless modified to hold no more than 3) will also come into the restricted firearm category and applications for firearm certificates for all restricted firearms shall now be considered by a chief superintendent (see also Annex 'D': 'Club guns' shall **not** be restricted firearms).

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, the appropriate Garda superintendent or chief superintendent 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 disqualified 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 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. (See Chapter 3 for further guidance).
- 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 appropriate 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 which is subject of the application - depending on the circumstances of each case, an individual who has already possessed a certificate (without any convictions under the Firearms Act, 1925-2009) 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 that they have acquired a degree of competency in the use of firearms 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.

An issuing person tasked with considering whether or not to grant a firearms certificate to an individual, must be satisfied that public safety is never compromised when making these decisions. Issuing persons should however bear in mind 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 any individual's psychiatric or 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 2 referees who may be contacted to attest to the character of the applicant - referees should be responsible adults and, as the issuing person may need to contact them and verify the information they provide, 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. have 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 well e.g. in a social or work context for over 5 years, is not a relative. In the case of an applicant who has not resided long in the State, 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. (See Annex 'B' for further guidance).

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 chief superintendents of the Garda Síochána.

The chief superintendent must be satisfied as to the following requirements:

- (a) that the applicant fully complies with the conditions as provided for by 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 that is appropriate for the purpose for which it is required.

The basis of this requirement is that individuals will only be granted a restricted firearms certificate when a non restricted firearm will not fulfil the same purpose as a restricted firearm. 'Good Reason' for requiring a restricted firearm includes an explanation of why a non restricted firearm will not fulfil the purpose for which the firearm is required.

Attention is also drawn to section 3D of the Firearms Act 1925 as inserted by section 30 of the Criminal Justice (Miscellaneous Provisions) Act 2009. This section provides that no application for a firearm certificate shall be considered in respect of a short firearm other than for:

- a) a device capable of discharging blank ammunition and to be used as a starting gun or blank firing gun;
- b) a short firearm of a type specified in the Firearms (Restricted Firearms and Ammunition) (Amendment) Order 2009 (S.I. No: 337 of 2009) and designed for use as so specified;
- c) a short firearm for which the applicant for the firearm certificate held a firearm certificate on or before 19th November 2008.

NOTE: Any firearm certificate in respect of a short firearm, other than to which paragraphs (a) to (c) above relates, granted between 19th November 2008 and the date of commencement of this section and in force shall stand **revoked**.

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. Application for a firearms training certificate is also made on form FCAI and is 50% of the fee (€40) of an ordinary firearm certificate. The payment process is also outsourced to An Post.

- 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 issue 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 section 2(5) of this Act.
- 2 Where the applicant is under 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 from the date in which it was granted, unless revoked.
- 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: A firearm training certificate does not permit the holder of the certificate to actually own a firearm. If the firearm certificate to which the training certificate applies is cancelled or revoked, the training certificate shall also cease to be in force.

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. Where an application is refused, the applicant shall be informed in writing of the refusal and the reason for it. If a decision on an application is not made within this 3 month period then this is deemed to be a refusal under section 15A of the Firearms Act 1925 as inserted by section 43 of the Criminal Justice Act 2006.

APPEAL DECISION ON THE GRANTING OF A FIREARMS CERTIFICATE

Section 43 of the Criminal Justice Act 2006 inserts a new section 15A into the Firearms Act 1925 to provide for an appeal to the District Court by an aggrieved person within 30 days of receipt of notice of refusal. This may include any of the following decisions made by an issuing person. (For a full list see section 15A of the 1925 Act) to:

- 1 refuse 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 refuse to grant a firearms training certificate under section 2A of the Act;
- 3 refuse 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 refuse 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 granted by the person 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. Where a firearm certificate is revoked, the issuing person may direct in writing that the holder 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 has 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 in 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, and in particular whilst traveling to a shoot or to a 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:

- That possession and carriage of any firearm including a short firearm (barrel under 30cm or overall length not exceeding 60cm)/ammunition concealed on the person in public is not permitted at any time, save in circumstances where such possession and carriage on the person is necessary for a lawful purpose.
- In the case of self loading (semi automatic) pistols and revolvers consideration may be given to a requirement to dismantle each gun when not at the range where it is intended to be used with some necessary parts held at the range.
- During transport, firearms must 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 gun should be loaded with ammunition while traveling 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 a good idea to also place in the boot 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 v 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.

In light of this judgment 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 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 – Contrary Ruling of the High Court

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 gun. This decision was challenged by the applicant and the case came on for hearing before Mr. Justice Charleton. Charleton J. refused to quash the decision of 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 that he has a good reason for requiring the particular gun. Those factors include public safety, the good order of the community, the proliferation of weapons, and the dangerousness of the gun (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 gun 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.

It is clear that there are now inconsistent judgements of the High Court. The legal position can only be resolved by the Supreme Court. It must be emphasised that the position as stated in McCarron cannot be seen as the settled position.

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 wish to simply own a particular sort of firearm is not in itself a "Good Reason" without further supporting evidence of intentions for its use. "Good Reason" therefore will need to be demonstrated for each firearm to be held.

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 their 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 examples of the additional information that issuing persons may request from the applicant

CHAPTER 4: RIFLE AND PISTOL CLUBS AND SHOOTING RANGES

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

Section 33 of the Criminal Justice Act, 2006 which was commenced on 1st August 2009, 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 where a person is making an application for a firearms certificate for a rifle or pistol for 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 a member of the Garda Síochána of superintendent rank) 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. The payment process under this section has not been outsourced to An Post. Application forms for these authorisations will be 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. A new Statutory Instrument on the authorisation of Firearm Shooting Ranges will refer to the minimum standards for security, management, membership, and design of shooting ranges and also will address the types of firearms to be used and the level of competency of persons using the range.

Section 4A of the Firearms Act 1925 as inserted by section 33 of the Criminal Justice Act 2006 has also introduced the requirement for any shooting range to have a firearms range certificate in force, prior to applying to the relevant superintendent for an authorisation under the Act. This firearms range certificate is issued by the Firearms Range Inspector appointed by the Minister for Justice, Equality and Law Reform and applications for range certification should be made to the Department of Justice, Equality and Law Reform, on the appropriate application form, by the owner or operator of the shooting range. An authorisation under this section will remain in force for 5 years unless otherwise revoked.

When considering an application for an authorisation for a rifle/pistol club or shooting range under this section, superintendents should be cognisant of the new section 33 of the Criminal Justice (Miscellaneous Provisions) Act, 2009 which introduced a new section

4C into the Firearms Act 1925. Section 4C now prohibits ‘practical or dynamic shooting’. (Except where there is an authorisation under section 2(5)(a) of the 1925 Act and the muzzle energy is less than 16 joules e.g. paintball markers). 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. The definition of practical or dynamic shooting is: ‘any form of activity in which firearms are used to simulate combat or combat training’.

Each issuing superintendent shall ensure that all rifle and pistol clubs and shooting ranges authorised under this new legislation are captured on PULSE as an organisation. 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 has 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 immediately forwarded to the Firearms Policy Unit to ensure the register is properly maintained.

Clay pigeon shooting venues and paintball sites are not classified as firing ranges under this section as the section only applies to rifle and pistol target shooting ranges. It should be noted, however, that paintball markers are defined as firearms under the Firearms Acts, and individuals wishing to possess, use and carry these firearms must undergo the same application process as any other applicant for 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. However, these ranges will not require certification by the Firearms Range Inspector as they are not deemed to be shooting ranges under the new legislation.

As restricted firearms now require certification by a chief superintendent, ‘club guns’ under authorisation 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 yet concluded, should not 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 an authorised range has been refused, serious consideration should be given to revoking the authorisation.

GARDA LIAISON WITH LOCAL GUN CLUBS

It is recommended that the superintendent of each district, or a representative nominated by the superintendent, should 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 of Mr. Justice Barr in 2006 in his report on firearms.

Individuals who have cited membership of, for example, a clay pigeon club or game shooting club as their 'Good Reason' for having a firearm certificate must be mindful that if they should allow their membership of the club to lapse for any period during the lifetime of the certificate, that this may constitute grounds for revoking their firearm certificate.

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

The following information is a guide to the type of weapons that are most suitable for the particular shooting activity they are required for. It is intended to assist issuing authorities 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 should be single shot or bolt action with calibres up to .308 inch. (7.62mm). There can be cross-over between rifles used for hunting or those for target shooting. Rifles designed for military/police tactical use or with large magazine capacity are more dangerous and the difference between them and ordinary rifles does not make them any more suited to target shooting. The same applies to rifles which are variants of military assault rifles, bullpups with folding or telescopic stocks or semi-automatic centrefire calibres. Rifles to be safe should have a barrel length of more than 50cm.

Pistols

A target shooting pistol is a precision instrument designed for competitions such as those seen at the Olympic Games. They are .177 air or .22 inch rimfire calibres (.22 inch long, .22 inch long rifle). These pistols are adjustable to the shooter and have a small capacity magazine (up to 5 rounds). These pistols are different in appearance to and are unlikely to be confused with those designed for use by military/police forces in combat confrontation with adversaries.

Shotguns

Shotguns for clay pigeon competitions are generally double-barrelled and of 12 gauge. Pump-action or semi-automatic shotguns are sometimes used in local or parish competitions; 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 more dangerous and are no more effective. In considering applications for shotguns it should be noted that most applications will involve applications for single barrel, double barrel (both side-by-side and over and under) and semi-automatic models. These are primarily used for hunting birds and small animals. Shotguns, to be safe, should have a barrel not less than 61cm in length and should not resemble a tactical or combat firearm.

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

REGISTERED FIREARMS DEALERS

Section 38 of the Criminal Justice Act 2006 has amended section 9 of the principal Act. The registration of a person in the register of firearms dealers shall now continue in force for three years unless it is revoked. The register is maintained by the Minister for Justice, Equality and Law Reform.

Section 39 of the Criminal Justice Act 2006 amends section 10 of the principal Act and introduces the category of a restricted firearms dealer authorised by the Minister for Justice, Equality and Law Reform. The registration of a person under this section also continues in force for a period of three years unless it is revoked.

Section 36 of the Criminal Justice (Miscellaneous Provisions) Act 2009 substitutes a new section for section 17 of the 1925 Firearms Act. However, this section has not yet been commenced and section 17 still applies.

AIRSOFT – REALISTIC IMITATION FIREARMS

Section 40 of the Criminal Justice (Miscellaneous Provisions) Act 2009 inserts nine new sections after section 9 of the Firearms and Offensive Weapons Act 1990 and deals with the regulation of realistic imitation firearms not over one joule in muzzle energy and therefore do not come 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.

Note: Only sections 9A and 9B were commenced on 1st August 2009. The remainder of these sections will be commenced at a later date.

Section 9B now also provides for a superintendent of any district to authorise in writing the possession, use or carriage of these realistic imitation firearms at a specified location in that district for a period not exceeding one year (see Annex 'D' re authorisations).

Section 9C will provide for the Minister for Justice Equality and Law reform to establish and keep a register of dealers in these realistic imitation firearms. The registration of a person in this register shall continue in force for 3 years unless removed or revoked. The Minister may, after consultation with the Garda Commissioner, specify minimum standards to be complied with by reference to security of premises, construction, window display, merchandise, location etc.

Section 9D will 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 as kept by the Minister above.

CHAPTER 6: OVERSEAS USE OF FIREARMS 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, big game or dangerous game animals such as Boar, Elephant, Cape buffalo, Lion or 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 (3,000 joules or 4,000-5,000 foot pounds) muzzle energies. These might 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.

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 something which should 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 S.I. 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.

NOTE: During the transition period (as outlined in chapter 1) an individual’s European Firearms Pass may be extended by an issuing person in line with the period of extension of that person’s firearm certificate.

A person, resident in this State and being the holder of a firearm certificate, shall be entitled to a European Firearms Pass issued by the superintendent of the Garda Síochána for the district in which they reside. The pass which will now be in force for up to three years, (to coincide with the three year firearms certificate) will greatly assist Irish shooters wishing to travel overseas as it will no longer expire on the 31st July each year as has been the case heretofore.

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; a copy will not be accepted. 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. In addition the person will be required to possess a non resident firearm certificate (see below).

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 now 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 resident in this State, shall be made on a separate application form (available on the Garda Síochána website) to that of a resident of this State and the fee shall accompany the application. The application shall be made to the superintendent of the 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.

The application should be processed as quickly as possible, but it should be noted that an application for a certificate relating to a restricted firearm may take longer to process than an application for a non restricted firearm.

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 circumstance:

- 1 An individual exporting a firearm to a member state of the EU: - The form Firearms Import/Export Application Form for Individuals, accompanied by a copy of the valid firearms certificate for the firearm, should be forwarded to The Firearms and Explosives Unit, Crime 4 Division, Department of Justice, Equality and Law Reform, 94 St Stephens Green, Dublin 2. Note: In cases where there is no valid firearm certificate, the individual must apply to a Garda superintendent for 'An Authorisation for Export or Removal' and attach this to the application made to the Department. An export licence will then be granted to legally export the firearm.
- 2 An individual exporting a firearm or ammunition to a country which is not a member of the EU: - Applications to export firearms to countries which are not members of the European Union are dealt with by contacting the Department of Enterprise, Trade and Employment, 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 the amount of ammunition that is to be specified in the firearm certificate and each application will be judged on its own merits. The amount of ammunition granted will be captured on the firearm certificate. Issuing persons should be mindful of the fact that ammunition is sold in batches for example 20's, 50's etc depending on its type and the category of shooting being conducted and this may be a consideration when assessing the application.

The practice of manually amending the amount of ammunition attached to a certificate is no longer possible, so it is vitally important that an issuing person gives proper consideration to the issue of ammunition when considering the original application for 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 from the applicant by the issuing person when considering the application.

The type or category of shooting being conducted by the applicant will be a key consideration when an issuing person is determining the amounts of ammunition to be specified in the firearm certificate. The following ratio of ammunition to purpose could be considered average:

- Farmer (one shotgun for vermin/pest control) – 100 rounds.
- Deer Gun – 200 to 260 rounds.
- Shotgun for clay pigeon, pheasant/pigeon/woodcock – 500 to 750 rounds.
- Target Shooter (member of authorised club) – 750 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.

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) in order to help 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 to shoot in particular circumstances. However, the Garda Síochána will wish to be satisfied as part of "Good Reason" that the land nominated is suitable for the types of firearms to be used.

Issues which may be relevant in considering an application could 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 stops 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. However it does pose a greater risk to the public and other farm animals. A condition which might be considered appropriate to the licensing of a centrefire high powered rifle for fox shooting could be that Gardai 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 is granted by the local superintendent of the district where such performance is to 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 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/DEACTIVATED FIREARMS

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 buy 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.

Deactivated/Defective firearms, not capable of being fired, may be kept on the written authorisation of the local superintendent under S.6 of the Firearms and Offensive Weapons Act 1990 as amended. The superintendent must be satisfied that the firearm is actually permanently deactivated and may request certification of same from a recognised proof house and have the firearm examined by a suitably qualified member of the Garda Síochána. Ballistics section Garda H.Q. may also be contacted to offer any further assistance if required. The serial number on such a deactivated firearm should always be maintained for identification purposes.

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 are normally single shot or bolt action rifles between .243 inch (6mm) and .308 inch (7.62mm) inch calibres inclusive. Their magazine capacity is normally small i.e. less than 5 rounds. Assault rifles are more dangerous and no more effective for deer hunting.

Rifles – Fox culling

Centrefire rifles of calibres .220 inch or .223 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 presents 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 rifles. A semi-automatic or a variant of a military assault or bullpup rifle is more dangerous and no more effective.

Rifles - Rabbits etc

Single shot bolt-action or semi-automatic rifles of .22 inch rimfire calibres (.22 inch long and .22 inch long rifle) are used to shoot rabbits. All other rimfire calibres .17 HMR, .22 inch Magnum should be single-shot or bolt-action. Rifles should have a magazine capacity not greater than 10 rounds and they should be genuine hunting rifles. Rifles which have folding stocks or are variants of an assault rifle are more dangerous and no more effective.

ANNEX A: THOSE DISENTITLED TO HOLD A FIREARM

Those 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 –
- (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 any evidence of hostility likely to lead to violence. Again, an assessment will need to be made of each 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 manage the safety of 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 however, 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 behavior posing a risk to the public. It should be remembered that simply because a person has received treatment in the past for certain illnesses or conditions, such as depression or stress, it does not automatically follow that 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.

Where an issuing person intends to revoke a firearm certificate pursuant to section 5 of the Firearms Act, 1925 as amended, the reasons for the revocation must be communicated in writing to the holder of the certificate.

- (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 license holders. Approaches to an applicant's general practitioner or other medical practitioner will not be made as a matter of routine and 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, to knowingly give false information in relation to an application for a firearms certificate. This would apply to any false statement given in answer to 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 when 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 practitioner at any time during the life 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. It is important to ensure that the 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 5 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 the referee to discuss information provided on the reference form or on any other matter relating to the application. If the Garda Síochána 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 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 or revoke any such 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 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 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 S.I. 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 which apply where there is single ownership will apply to those owners or 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 for the possession, use or carriage of a firearm or ammunition in certain listed circumstances under the Firearms Acts, 1925 to 2009. Particular attention is drawn to Section 2(4) of the Firearms Act, 1925 as amended. This lists the circumstances where a superintendent may issue authorisations for such occasions or events as outlined in this 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 used by a superintendent to authorise the likes of pony club and pentathlon events. These authorisations shall be for a period not exceeding 1 year and the issuing person must be satisfied that any 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 now provides for a superintendent to authorise in writing the possession, use and carriage of realistic imitation firearms – known as ‘Airsoft’- at a specific location for a period not exceeding 1 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.

CLUB GUNS

The recently commenced section 4A of the Firearms Act 1925 as inserted by section 33 of the Criminal Justice Act, 2006 now requires all rifle and pistol clubs and shooting ranges to be authorised. A situation has previously evolved whereby some superintendents have permitted the holding of ‘club guns’ by these clubs and ranges under their range or club authorisation and without a certificate. All future rifle and pistol club and range authorisations will be required to be granted under this section 4A. Furthermore, under section 2(6) of the Firearms Act 1925 as amended by section 26 of the Criminal Justice (Miscellaneous Provisions) Act 2009, ‘club guns’ shall not be restricted firearms.

SILENCERS – GUIDANCE AS TO THEIR USE

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.

The S.I, as amended, further defines all silencers, except ‘those capable of being used only with long rifled firearms’, to be restricted firearms. 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

providing that the applicant is in possession of a firearms certificate for the firearm to which it is to be fitted.

Applications for authorisations silencers for non restricted firearms will continue to be made to the superintendent of the district where the applicant resides. The Garda Commissioner, under section 25C of the Firearms Act 1925 as inserted by section 48 of the Criminal Justice Act 2006, 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 will 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.

Silencers are designed to reduce the report of the firearm so as to conceal the position of the shooter, and also to reduce the felt recoil. Silencers have traditionally been used on rimfire rifles of .22 calibres when shooting rabbits. This allows the shooter to kill 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. Previously this was regarded as unsporting and unnecessary. The advantages of using a silencer for this purpose would include: The reduction in felt recoil allowing the shooter to stay on target, reduce the risk of flinching, and prevent the group of animals fleeing after the initial shot. These advantages must be weighed against the safety to others (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 giving them a general direction in which 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.

In light of the disadvantages of the use of a silencer and the limited benefits – benefits which can be obtained in other less dangerous ways – the threshold for 'Good Reason' to seek to have a silencer certified for any restricted firearm such as centrefire handguns or semi automatic centrefire rifles will be quite high.

When an applicant is applying for a firearm certificate, the application should include whether or not a silencer is being sought for that particular firearm. A **subsequent** application for a silencer will require the applicant to re apply on a new application form FCA1 and will require the full €80 fee. As already stated, all firearm certificates must now include details of any authorisation for a silencer in respect of that particular firearm.

ANNEX E: SUBSTITUTIONS, AND DISPOSAL OF FIREARMS

SUBSTITUTIONS AND ‘LIKE FOR LIKE’

When an application to substitute a firearm certificate is made – on the basis of ‘like for like’ – the process should be completed by the Garda Síochána in a reasonable time frame of approx. 14 days. This application will be made on the ordinary application form FCA1 and will not require a fee. In this situation, the applicant will not be required to undergo the entire application process again e.g. medical enquires, referees etc. It should be noted that approx two weeks following the issue of a substitute firearm certificate, the original firearm certificate will cease to be in force and should be destroyed by the holder.

When assessing a ‘like for like’ application, an issuing person should be satisfied that the applicant’s ‘Good Reason’ for possessing the firearm has not changed since the original grant of the certificate. For example, substituting a non restricted long firearm for another non restricted long firearm is allowable provided that 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.

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 dies. 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

The new three year firearms licensing system has resulted in a large number of existing firearms licence holders not wishing to reapply for a firearms certificate and as a result thousands of unwanted firearms have been handed in to Garda Stations for destruction free of charge, or sold or otherwise disposed of.

Prior to the Garda Síochána accepting the hand over 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 firearm being handed over. 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 may also be 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 needed or 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 so hand over permanent ownership of the firearm.

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 on PULSE so that proper records are maintained in relation to every firearm. Also, form FCA2 should be completed if the firearm certificate is to be cancelled and forwarded to Firearms Computer Section, Garda H.Q. so that this cancellation can be recorded. When a firearm has subsequently been destroyed, this fact should be immediately forwarded in writing to the person who had handed over the firearm to the Garda Síochána.

In circumstances where a person is refused a firearm certificate under the new legislation but still has possession of the firearm, that firearm must be either handed over to the Garda Síochána for permanent destruction or to a registered firearms dealer as already outlined. 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, the firearm must be handed over to a registered firearms dealer as outlined pending that appeal. Failure to do so will 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 authorisations under the legislation as is currently in force. As further legislation pertaining to firearms licensing is commenced, the guidelines will necessarily be updated and amended, and will also take into account any new and relevant case law.

Further assistance may be sought from:

The Firearms Policy Unit,
Crime Policy and Administration,
Garda Headquarters,
Dublin 8.