

Northern Ireland Arms Decommissioning



A BILL

To make provision connected with Northern Ireland about the decommissioning of firearms, ammunition and explosives; and for connected purposes.

*Presented by Secretary Sir Patrick Mayhew
supported by
The Prime Minister, Mr Secretary Howard,
Mr Secretary Rifkind, Mr Secretary Portillo,
Mr Secretary Forsyth and Sir John Wheeler.*

*Ordered, by The House of Commons,
to be Printed, 29th November 1996*

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Northern Ireland Arms Decommissioning Bill

ARRANGEMENT OF CLAUSES

Clause

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4. Amnesty.
5. Evidence.
6. Testing decommissioned articles.
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SCHEDULE:—

Offences Covered by the Amnesty.

Northern Ireland Arms Decommissioning Bill

EXPLANATORY AND FINANCIAL MEMORANDUM

The Bill makes provision in relation to the decommissioning of firearms, ammunition and explosives in Northern Ireland, having regard to the guidelines on the modalities of decommissioning contained in the Report of the International Body (22 January, 1996).

Clause 1 defines the term "decommissioning scheme" for the purposes of the Bill, and provides for the proof of a scheme in legal proceedings.

Clause 2 requires that the period during which firearms, ammunition and explosives may be dealt with in accordance with a decommissioning scheme (the "amnesty period") must be identified in the scheme, and deals with its duration, conferring power on the Secretary of State to extend the maximum duration for periods of up to 12 months, until five years after Royal Assent.

Clause 3 requires a decommissioning scheme to make provision for one or more specified ways of dealing with firearms, ammunition and explosives, while allowing the scheme to make provision also for others.

Clause 4 provides for an amnesty from prosecution for those acting in accordance with a decommissioning scheme in respect of offences specified in the Schedule, and enables the Secretary of State by order to add or remove any offence.

Clause 5 provides that a decommissioned article, or information derived from it, as well as evidence of anything done and of any information obtained in accordance with a decommissioning scheme shall be inadmissible in criminal proceedings. The restriction does not apply to the admission of evidence on behalf of the accused, nor to proceedings for an offence alleged to have been committed with an article which had been decommissioned at the time the offence was committed.

Clause 6 prohibits certain forensic tests and procedures in relation to decommissioned articles. Tests and procedures for safety and verification purposes are excluded from the prohibition, as are tests and procedures in connection with the investigation of an offence alleged to have been committed after an article has been decommissioned.

Clause 7 makes provision about a Commission as mentioned in the report of the International Body and provides the Secretary of State with power by order to confer on the Commission the legal capacities of a body corporate, and on it, its members and servants and members of their families who form part of their households certain privileges and immunities. The clause also makes provision about payment to the Commission and its members, and about premises and staff.

Clause 8 makes provision about decommissioning schemes in respect of arms, ammunition and explosives in England and Wales and Scotland.

Clause 9 provides that the Secretary of State's expenses incurred in connection with a decommissioning scheme or in connection with the Commission shall be paid out of money provided by Parliament.

Financial effects and effect on public service manpower

The provisions of the Bill will have no significant new effect on public service manpower. The effect on public service expenditure will depend on the detailed decommissioning arrangements in due course put in place.

Business compliance cost assessment

There are no cost implications for business.

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Make provision connected with Northern Ireland about the decommissioning of firearms, ammunition and explosives; and for connected purposes. A.D. 1996.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

- 5 1.—(1) In this Act a “decommissioning scheme” is any scheme which—
 (a) is made by the Secretary of State to facilitate the decommissioning of firearms, ammunition and explosives in Northern Ireland, and
 (b) includes provisions satisfying the requirements of sections 2 and 3 (whether or not it also includes other provisions). Decommissioning scheme.

- 10 (2) Section 2 of the Documentary Evidence Act 1868 (mode of proving certain documents) shall apply to a decommissioning scheme. 1868 c. 37.

2.—(1) A decommissioning scheme must identify a period during which firearms, ammunition and explosives may be dealt with in accordance with the scheme (“the amnesty period”). Duration of decommissioning scheme.

- 15 (2) The amnesty period must end before—
 (a) the first anniversary of the day on which this Act is passed, or
 (b) such later day as the Secretary of State may by order from time to time appoint.

- (3) A day appointed by an order under subsection (2)(b) must not be—
20 (a) more than twelve months after the day on which the order is made, or
 (b) more than five years after the day on which this Act is passed.

 (4) An order under subsection (2)(b) shall be made by statutory instrument; and no order shall be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.

Methods of
decommissioning.

3.—(1) A decommissioning scheme must make provision for one or more of the following ways of dealing with firearms, ammunition and explosives (and may make provision for others)—

- (a) transfer to the Commission mentioned in section 7, or to a designated person, for destruction; 5
- (b) depositing for collection and destruction by the Commission or a designated person;
- (c) provision of information for the purpose of collection and destruction by the Commission or a designated person;
- (d) destruction by persons in unlawful possession. 10

(2) In subsection (1) "designated person" means a person designated by the Secretary of State or, in the case of firearms, ammunition or explosives transferred or collected in the Republic of Ireland, a person designated by the Minister for Justice of the Republic.

Amnesty.

4.—(1) No proceedings shall be brought for an offence listed in the Schedule to this Act in respect of anything done in accordance with a decommissioning scheme. 15

(2) The Secretary of State may by order add any offence or description of offence to, or remove any offence or description of offence from, the list in the Schedule to this Act. 20

(3) An order under subsection (2)—

- (a) shall be made by statutory instrument, and
- (b) may include such transitional provisions as appear to the Secretary of State to be expedient.

(4) No order shall be made under subsection (2) unless a draft has been laid before, and approved by resolution of, each House of Parliament. 25

Evidence.

5.—(1) A decommissioned article, or information derived from it, shall not be admissible in evidence in criminal proceedings.

(2) Evidence of anything done, and of any information obtained, in accordance with a decommissioning scheme shall not be admissible in criminal proceedings. 30

(3) Subsections (1) and (2) shall not apply to the admission of evidence adduced in criminal proceedings on behalf of the accused.

(4) Subsection (1) shall not apply to proceedings for an offence alleged to have been committed by the use of, or in relation to, something which was a decommissioned article at the time when the offence is alleged to have been committed. 35

Testing
decommissioned
articles.

6.—(1) A person who has received a decommissioned article shall not carry out, or cause or permit anyone else to carry out, a test or procedure in relation to the article the purpose of which is— 40

- (a) to discover information about anything done with or in relation to any decommissioned article,

- (b) to discover who has been in contact with, or near to, any decommissioned article,
- (c) to discover where any decommissioned article was at any time (including the conditions under which it was kept),
- 5 (d) to discover when any decommissioned article was in contact with, or near to, a particular person or when it was in a particular place or kept under particular conditions,
- (e) to discover when or where any decommissioned article was made, or
- (f) to discover the composition of any decommissioned article.
- 10 (2) Subsection (1)(f) does not prohibit a test or procedure the purpose of which is—
 - (a) to determine whether an article is, or contains, an explosive or ammunition,
 - (b) to determine the quantity of explosive or ammunition present, or
 - 15 (c) to determine whether an article can safely be moved or otherwise dealt with.
- (3) Subsection (1) does not prohibit a test or procedure the purpose of which is to discover information in relation to a decommissioned article where the information—
 - 20 (a) is sought for the purposes of the investigation of an offence alleged to have been committed at a time after the article became a decommissioned article, and
 - (b) does not concern the treatment of the article in accordance with a decommissioning scheme.

25 7.—(1) In this section “the Commission” means an independent organisation established by an agreement, made in connection with the affairs of Northern Ireland between Her Majesty’s Government in the United Kingdom and the Government of the Republic of Ireland, to facilitate the decommissioning of firearms, ammunition and explosives. The Commission.

- 30 (2) The Secretary of State may by order—
 - (a) confer on the Commission the legal capacities of a body corporate;
 - (b) *confer on the Commission, in such cases, to such extent and with such modifications as the order may specify, any of the privileges and immunities set out in Part I of Schedule 1 to the International Organisations Act 1968;* 1968 c. 48.
 - 35 (c) *confer on members and servants of the Commission and members of their families who form part of their households, in such cases, to such extent and with such modifications as the order may specify any of the privileges and immunities set out in Parts II, III and V of that Schedule;*
 - 40 (d) make provision about the waiver of privileges and immunities.

In this subsection “servants of the Commission” includes agents of, and persons carrying out work for or giving advice to, the Commission.

- (3) An order under subsection (2)—
 - 45 (a) may make different provision for different cases (including different provision for different persons);

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) *The Secretary of State may—*

(a) *make payments to the Commission or to members of the Commission;*

(b) *provide for the Commission such premises and facilities, and the services of such staff, as he thinks appropriate.*

(5) This section shall come into force on such day as the Secretary of State, after consulting the Minister for Justice of the Republic of Ireland, may by order made by statutory instrument appoint.

(6) This section shall cease to have effect at the end of such day as the Secretary of State, after consulting the Minister for Justice of the Republic of Ireland, may by order made by statutory instrument appoint; and an order under this subsection may include such transitional provisions as appear to the Secretary of State to be expedient.

Arms in England
and Wales and
Scotland.

8.—(1) This section applies to any scheme which—

(a) is made by the Secretary of State, for purposes relating to the affairs of Northern Ireland, to facilitate the decommissioning of firearms, ammunition and explosives in England and Wales or in Scotland, and

(b) includes provisions satisfying the requirements of sections 2 and 3 (whether or not it also includes other provisions).

(2) The Secretary of State may by order provide that a scheme to which this section applies shall be a decommissioning scheme for the purposes of this Act.

(3) In relation to a scheme which is a decommissioning scheme by virtue of subsection (2), the Schedule to this Act shall have effect with the substitution for any offence under the law of Northern Ireland of such similar offence under the law of England and Wales, or as the case may be of Scotland, as the Secretary of State may specify by order.

(4) An order under this section shall be made by statutory instrument; and no order shall be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.

Expenses.

9. Any expenses incurred by the Secretary of State in connection with a decommissioning scheme or under section 7(4) shall be paid out of money provided by Parliament.

Interpretation.

10.—(1) In this Act—

“ammunition” means anything which is—

(a) ammunition within the meaning of the Firearms (Northern Ireland) Order 1981, or

(b) a component of such ammunition;

“decommissioned article” means—

(a) anything which has been transferred, deposited or collected in accordance with a decommissioning scheme.

S.I. 1981/155 (N.I.
2).

(b) anything found on or in, or received with, something falling within paragraph (a), and

(c) a part of, or thing derived from, something falling within paragraph (a) or (b);

5 "destruction" includes making permanently inaccessible or permanently unusable;

"firearm" means anything which—

(a) is a firearm within the meaning of the Firearms (Northern Ireland) Order 1981, S.I. 1981/155 (N.I. 2).

10 (b) is an accessory to such a firearm,

(c) is a weapon designed or adapted for the discharge of any thing, or

(d) has the appearance of being one of the things described in paragraphs (a) to (c);

15 "explosive" means anything which is—

(a) an explosive within the meaning of the Explosives Act 1875 c. 17, or

(b) an explosive substance within the meaning of the Explosive Substances Act 1883 c. 3.

20 (2) In this Act, references to things done in accordance with a decommissioning scheme include references to things done in accordance with arrangements provided for by a scheme.

11.—(1) This Act may be cited as the Northern Ireland Arms Decommissioning Act 1996. Short title and saving.

25 (2) Nothing in this Act shall prejudice any power or discretion exercisable apart from this Act in relation to the institution or conduct of criminal proceedings.

Section 4(1).

SCHEDULE

OFFENCES COVERED BY THE AMNESTY

	<i>Explosives Act 1875</i>	5
1875 c. 17.	1. An offence of contravening any provision of the Explosives Act 1875 or any instrument under that Act.	
	<i>Explosive Substances Act 1883</i>	
1883 c. 3.	2. An offence under section 4 of the Explosive Substances Act 1883 (possession of explosive under suspicious circumstances, &c.).	10
	<i>Criminal Law Act (Northern Ireland) 1967</i>	
1967 c. 18 (N.I.).	3. An offence under section 5 of the Criminal Law Act (Northern Ireland) 1967 (concealing offences, &c.).	
	<i>Theft Act (Northern Ireland) 1969</i>	
1969 c. 16 (N.I.).	4. An offence under section 1 or 21 of the Theft Act (Northern Ireland) 1969 (theft and handling stolen goods).	15
	<i>Explosives Act (Northern Ireland) 1970</i>	
1970 c. 10 (N.I.).	5. An offence under any provision of the Explosives Act (Northern Ireland) 1970.	
	<i>Health and Safety at Work (Northern Ireland) Order 1978</i>	20
S.I. 1978/1039 (N.I. 9).	6. An offence under any provision of the Health and Safety at Work (Northern Ireland) Order 1978.	
	<i>Customs and Excise Acts 1979</i>	
1979 c. 2.	7. An offence under any provision of the Customs and Excise Acts 1979 (within the meaning of the Customs and Excise Management Act 1979).	25
	<i>Firearms (Northern Ireland) Order 1981</i>	
S.I. 1981/155 (N.I. 2).	8. An offence under any of the following provisions of the Firearms (Northern Ireland) Order 1981:	
	(a) article 3(1) (possession, &c. of firearm or ammunition not authorised by firearm certificate);	30
	(b) article 4(1) and (2) (transactions with firearms and ammunition);	
	(c) article 6(1), (1A) and (4) (prohibited firearms and ammunition);	
	(d) article 7 (movement of firearms and ammunition);	
	(e) article 18(2), in so far as it concerns possession of firearms or imitation firearms at the time of being arrested;	35
	(f) article 20(1) (carrying firearms in a public place);	
	(g) article 21 (trespassing with firearms);	
	(h) article 22(5) and (7) (possession of firearms by person previously convicted of crime, &c.);	
	(i) article 23 (possession of firearms and ammunition in suspicious circumstances);	40

- (j) article 26 (acquisition and possession of firearms and ammunition by persons under 18); SCH.
 (k) article 43 (failure to comply with requirements relating to transactions in firearms, &c.).

5 *Prevention of Terrorism (Temporary Provisions) Act 1989*

9. An offence under either of the following provisions of the Prevention of Terrorism (Temporary Provisions) Act 1989— 1989 c. 4.

- (a) section 10(1)(b) (making property available for the benefit of a proscribed organisation, &c.);
 10 (b) section 18 (failure to disclose information about acts of terrorism).

Northern Ireland (Emergency Provisions) Act 1996

10. An offence under any of the following provisions of the Northern Ireland (Emergency Provisions) Act 1996— 1996 c. 22.

- (a) section 29 (directing terrorist organisation);
 15 (b) section 30(1)(c) (inviting persons to carry out orders on behalf of a proscribed organisation, &c.);
 (c) section 30(1)(d)(ii) or (iii) (meetings);
 (d) section 31 (display of support in public for proscribed organisation);
 (e) section 32 (possession of items intended for terrorist purposes);
 20 (f) section 35 (wearing of hoods, &c. in public place).

Inchoate offences

11. The offence of aiding, abetting, counselling, procuring or inciting the commission of an offence specified in this Schedule.

12. The offence of attempting or conspiring to commit an offence specified in this
 25 Schedule.