

# NORTHERN IRELAND ARMS DECOMMISSIONING BILL

## INTRODUCTORY SPEAKING NOTES

### Introduction

- HMG has consistently made clear its commitment to all aspects of the report of the International Body, including its recommendations on the modalities of decommissioning.
- We have undertaken, as have the Irish Government, to take appropriate statutory powers to enable us to give effect to any decommissioning arrangements agreed by the parties.
- Indeed, we have worked closely with the Irish in drawing up legislative proposals: terrorist arms are concealed in both parts of Ireland, and in order to be fully effective any decommissioning arrangements will need to be implemented on both sides of the border. The two bills, therefore, while not identical, are complementary.
- The draft Bill is therefore enabling in character. It is designed to allow HMG to put into effect in Northern Ireland the guidelines on modalities set out in paragraphs 39-50 of the International Body's report, and to provide the necessary statutory foundation for whatever detailed decommissioning scheme is in due course put in place.

### Clauses

- Clause 1 defines the term "decommissioning scheme" and provides for the proving of a scheme as a legal document.
- Clause 2 sets out the time limit within which a decommissioning scheme may be made: in particular, it places certain constraints on the period of any amnesty included

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within a scheme. Subsection 1 requires that the scheme specify the amnesty period. Subsections 2 and 3 require that this amnesty period must end within 12 months of the Bill receiving Royal Assent, unless the Secretary of State extends the period by order. These extensions can be for up to 12 months, subject to a maximum of five years from the date of Royal Assent. [These provisions reflect our judgement that it is necessary to go back to Parliament on a regular basis to confirm the continued need for an amnesty, since its effect is to set aside the criminal law.]

- Clause 3 requires that any decommissioning scheme should make provision for at least one of four specified ways of dealing with firearms, etc (ie those identified in paragraph 44 of the report of the International Body), while still allowing the scheme to make provision for other methods of decommissioning if required. The clause also defines what a 'designated' person is for these purposes.

- Clause 4 provides for an amnesty from prosecution in respect of certain (mainly possession-related) offences specified in the Schedule. The amnesty is available only to those acting in accordance with a decommissioning scheme; it is intended to protect those who commit offences through their participation in decommissioning, and is not a general amnesty for terrorist-related offences. The Schedule can be amended, if necessary, by order.

- Clause 5 is designed to give effect to the evidential recommendation in paragraph 48 of the International Body's report. It prevents a decommissioned article, or information derived from it, being used in evidence. It also prevents evidence of anything done, or information obtained, in accordance with a decommissioning scheme being admissible in criminal proceedings. The only exception is evidence adduced by the defence. These provisions do not apply if a

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decommissioned article is subsequently misappropriated and used to commit an offence.

- Clause 6 is designed to give effect to the forensic testing recommendation in paragraph 48 of the report of the International Body. It lists the types of tests which are not allowed: exceptions are those tests which are deemed essential for safety purposes, or to establish whether or not explosives or ammunition are present; and those where the purpose is to investigate an offence alleged to have been committed after an article has been decommissioned.

- Clause 7 concerns the independent Commission. It defines "the Commission" as an independent organisation established by agreement between HMG and the Government of the Republic of Ireland to facilitate the decommissioning of firearms, etc in both jurisdictions (ie the Bill does not itself establish the Commission). It also provides the Secretary of State with powers to confer by order on the Commission, its members and staff certain attributes, privileges and immunities, and to pay the Commission and its members, and provide it with staff and premises, if necessary.

- Clause 8 is a general power of expenditure. Clause 9 defines certain terms used in the Bill, and clause 10 contains the short title and savings.

#### Timing

- The timing of the Bill's introduction and enactment is a matter for political judgement which I believe the Secretary of State is discussing with you separately.

#### GB Dimension

- The decommissioning Bill is specifically tailored to provide a firm foundation for arms decommissioning in Northern Ireland



and to enable HMG to give effect to the Mitchell recommendations, which were specific to the Irish situation north and south. We do not believe that its particular provisions are appropriate to the very different circumstances of Great Britain, where the problem of illegal arms is of a quite different nature. Terrorist arms holdings in GB represent a very small, albeit deadly, proportion of illegal arms in England, Wales and Scotland.

- This does not mean that terrorist arms in Great Britain will be ignored. This issue will be raised in the discussions on decommissioning in the Talks process. Our aim is to remove all unauthorised weapons from the political equation.
- In the light of those discussions, and taking into account the arrangements agreed in decommissioning in Northern Ireland and the particular considerations applicable to GB, the Government will take steps to put in place measures to facilitate the decommissioning of terrorist arms in GB.
- It is too early to say what these measures might be: they would involve statutory or non-statutory measures, or a combination; this will depend on the precise circumstances in which decommissioning occurs. Parliament will be kept closely informed.

#### Commission

- HMG, like the Irish Government, accepts the International Body's recommendation (para 40) that decommissioning should be overseen by an independent Commission: the Bill's provisions are designed to enable us to give effect to that.
- Can see a clear role for an international component (though the Body's recommendation was that the Commission be independent rather than international). The precise

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composition and size of the Commission will depend on its role in the decommissioning scheme.

- For example, if its task is verification of a process in which the RUC and Garda take receipt of and destroy illegal arms, then a 3-5 person Commission with limited privileges and immunities may be sufficient. On the other hand, if the Commission itself is involved in taking receipt of arms, then its size, staffing and technical support arrangements and the privileges and immunities it will require will need to be more extensive.

- Flexible on this: enabling provisions deliberately designed to keep options open, and to give effect to International Body's recommendation that a Commission should be able to operate independently in both jurisdictions and enjoy appropriate legal status and immunity.

- Composition: no particular names in mind at this stage. Individuals of international status, or with relevant experience or expertise, could enhance credibility; may be a case also for local involvement, including employment of 'observers' as well as full members. All issues for discussion. Need to shape Commission to meet the requirements of the scheme, and community concerns.

- [Defensive.] Role of Commission is in implementation of scheme rather than negotiation of it, which will be a matter for the relevant parties in [decommissioning sub-committee].

## Nature of Scheme

- Prepared to consider all practicable proposals, but eventual scheme likely to fall into one of the broad categories identified by Mitchell: transfer of arms direct to designated representatives of either Government, or their recovery by them on the basis of information received; the same tasks

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performed by the Commission; or destruction of illegal arms by those in possession of them.

- The detail of the scheme will need a good deal of work. Need to agree broad outline first, and then spell out precise operation in subordinate legislation. Should reflect guidelines set out by Mitchell: safe, verifiable etc. Governments will come forward with proposals in due course.
- Amnesty arrangements will be required. These will be time-limited, and linked directly to operation of scheme. A general amnesty for all terrorist offences not being considered.