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The new Antique Firearms Regime – are your collectors' items still exempt?

By Fahrid Chishty

The law governing the possession of firearms is strict and comprehensive. However, not all forms of possession are prohibited. Many people – ranging from police officers to farmers – may have legitimate reason to possess a firearm.

Antique collectors and dealers will generally rely on the “antique firearms exemption”, which is given statutory footing by Section 58 of the Firearms Act 1968 (“FA”). Section 58(2) enshrines the age-old principle that “antique firearms sold, transferred, purchased, acquired or possessed as curiosities or ornaments” are exempt from the controls and provisions in the legislative scheme. The logic for this is as follows: antique firearms collected as curiosities or ornaments do not pose a real risk to the public as the ammunition they rely on to become operational is no longer manufactured or readily commercially available. Often, antique firearms are no more than family heirlooms or vintage memorabilia. As such, the need for a regime regulating their possession ostensibly falls away.

However, the term ‘antique’ was not defined in the statute and for more than half a century the judiciary shied away from drawing its contours. This led to a lack of clarity as to what constitutes an antique firearm for the purposes of the exemption. This legal lacuna was exploited over the decades: consider the case of Paul Edmunds, an antique weapons dealer from Gloucestershire who supplied guns and ammunition to gangsters which were later recovered at more than 100 crime scenes nation-wide including at gangland murders.¹ Edmunds’ case may have been only the tip of the iceberg – reports from the National Ballistics

¹ See for instance: <https://www.theguardian.com/uk-news/2017/dec/21/antique-gun-dealer-jailed-supplying-gangsters-paul-edmunds>

Intelligence Service (NBIS) paint a picture of antique firearms being increasingly implicated in criminality in this country since 2007.²

It is perhaps no great surprise that Parliament has sought to close this loophole. The term 'antique firearm' has now been defined in statute; the scope of that definition and its implications is considered below.

A Tripartite Definition

On 22nd March 2021, Section 136 of the Policing and Crime Act 2017 ("PCA") entered into force by virtue of the Antique Firearms Regulations 2021 and the Policing and Crime Act 2017 (Commencement No.11 and Transitional Provisions) Regulations 2021. The combined effect of Section 136 and these Regulations is that Section 58 FA is now amended and a tripartite definition for antique firearm has entered into force. As such, for a firearm to be considered an antique firearm it must meet the following criteria:

- It must have been manufactured before 1st September 1939; and
- It must have a propulsion system of a type specified in the Antique Firearms Regulations 2021 (principally muzzle loaders, pin-fire and needle-fire) or the chamber is the same as when it was manufactured, or an identical replacement in all material respects, and it is chambered for use with a centre-fire cartridge listed in the Schedule to the Regulations; and
- It must be sold, transferred, purchased, acquired or possesses as a curiosity or ornament.

It follows that a firearm – no matter how ostensibly obsolete - will fail to qualify as an antique firearm unless these three requirements are met.

Evidently, there is now greater clarity on the ambit of the s58 exemption. That is a positive development – it means that organised criminal groups (OCGs) and rogue licensed-dealers will no longer be able to exploit the antique firearms

² See the 'Obsolete Calibre (Antique) Firearms Threat Briefing' (2018), Police Firearms Officers Association, available at: <https://www.pfoa.co.uk/blog/nabis>

loophole to their advantage. Plainly, this will contribute to safer streets and enhanced public safety.

However, what is the position for collectors, dealers and those who simply acquire vintage firearms for their historical or sentimental value? If people falling into this category find that their items do not fit the new tripartite definition, they will no longer be exempt from the statutory controls and licensing requirements. As such, they will have to make some crucial decisions lest they find themselves on the wrong side of the law and liable to criminal prosecution.

The good news is this - there is still time for them to get their houses in order. The Regulations stipulate a transition period of six months, so these individuals have until 21st September 2021 to decide what to do with their firearms. The most obvious solution would be to apply for a firearms certificate or to have the firearms deactivated so they can be retained in the home without the need for a license. Alternative routes include surrendering firearms to the police, donating them to a museum or selling on to a registered dealer – although these options entail the inevitable forfeiture of the items, which many people may not wish to do (in particular, those who acquired them for ornamental or curiosity value in the first place.)

As such, the time to act is now. Failure to comply with the new statutory-regulatory regime may entail very serious consequences such as criminal charges being brought and prosecutions pursued.

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