

2011 No. 713

ARMS AND AMMUNITION

The Firearms (Electronic Communications) Order 2011

<i>Made</i> - - - -	<i>9th March 2011</i>
<i>Laid before Parliament</i>	<i>11th March 2011</i>
<i>Coming into force</i> - -	<i>1st April 2011</i>

The Secretary of State, considering that the authorisation of the use of electronic communications by this Order for any purpose is such that the extent (if any) to which records of things done for that purpose will be available will be no less satisfactory in cases where use is made of electronic communications than in other cases, makes the following Order in exercise of the power conferred by section 8 of the Electronic Communications Act 2000(a).

Citation, commencement and extent

1.—(1) This Order may be cited as the Firearms (Electronic Communications) Order 2011 and shall come into force on 1st April 2011.

(2) This Order extends to England and Wales and Scotland.

Amendments to the Firearms Act 1968

2.—(1) The Firearms Act 1968(b) is amended as follows.

(2) In section 42A (information as to transactions under visitors' permits)—

(a) in subsection (1), for “by registered post or the recorded delivery service” substitute “by permitted means”;

(b) after subsection (2) insert—

“(2A) A notice is sent by permitted means for the purposes of subsection (1) if it is sent—

(a) by registered post;

(b) by the recorded delivery service; or

(c) by permitted electronic means (see section 42B).”.

(3) After section 42A insert—

“42B. Permitted electronic means

(1) A notice is sent by permitted electronic means for the purposes of section 42A if—

(a) 2000 c.7. The definition of “electronic communication” in section 15(1) of the Act was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).

(b) 1968 c. 27; section 42A was inserted by regulation 6(2) of S.I. 1992/2823.

- (a) it is sent by an electronic form of communication which the Secretary of State has directed may be used for those purposes,
 - (b) it is sent to an electronic address which has been published pursuant to subsection (4), and
 - (c) subject to subsection (6), the electronic address has not been withdrawn in accordance with subsection (5).
- (2) Before giving a direction under subsection (1)(a), the Secretary of State must consult—
- (a) the Scottish Ministers,
 - (b) the Association of Chief Police Officers,
 - (c) the Association of Chief Police Officers in Scotland, and
 - (d) such other persons as the Secretary of State is satisfied should be consulted.
- (3) The Secretary of State must publish directions given under subsection (1)(a).
- (4) A chief officer of police must publish at least one electronic address for each form of electronic communication specified in a direction under subsection (1)(a).
- (5) A chief officer of police may withdraw an electronic address published under subsection (4) by publishing a statement to that effect in the same manner as that in which the electronic address was published under subsection (4); but a chief officer of police may exercise the power to withdraw only if, after the withdrawal, there will still be at least one electronic address available for the form of electronic communication concerned.
- (6) Where an electronic address has been withdrawn under subsection (5), a notice sent to that electronic address before the end of the period of 28 days beginning with the day after the date of withdrawal is to be treated as complying with subsection (1)(b).”.
- (4) For section 56 (service of notices) substitute—

“56. Service of notices

- (1) Any notice required or authorised by this Act to be given to a person (A) may be sent—
- (a) by registered post,
 - (b) by the recorded delivery service, or
 - (c) subject to subsections (3) and (4), by electronic means.
- (2) For the purposes of subsection (1)(a) or (b) the notice must be sent in a letter—
- (a) addressed to A at A’s last or usual place of abode, or
 - (b) where A is a registered firearms dealer, addressed to A at any place of business in respect of which A is registered.
- (3) Subsection (1)(c) applies only to notices required or authorised to be given by a chief officer of police, the Secretary of State or the Scottish Ministers.
- (4) A notice may be sent by electronic means only if—
- (a) the person to whom the notice is to be sent (A) has given a written statement to the chief officer of police, the Secretary of State or the Scottish Ministers (as the case may be) consenting to receive notices under this Act in an electronic form,
 - (b) that statement specifies the electronic form (or forms) that may be used and an electronic address for each form,
 - (c) subject to subsection (7), the statement has not been withdrawn in accordance with subsection (5)(b), and
 - (d) the notice is sent to the electronic address specified in the statement for that form.
- (5) A statement given for the purposes of subsection (4)(a) may—
- (a) be limited to notices of a description specified in the statement;

(b) be withdrawn by giving a further written statement to the person to whom it was given.

(6) A statement given for the purposes of subsection (4)(a) or (5)(b) may not be given by electronic means.

(7) Where a statement given for the purposes of subsection (4)(a) has been withdrawn under subsection (5)(b), a notice sent in accordance with that statement before the end of the period of 28 days beginning with the day after the date of the withdrawal is to be treated as complying with subsection (4)(c).”.

Amendments to the Firearms (Amendment) Act 1988

3.—(1) The Firearms (Amendment) Act 1988(a) is amended as follows.

(2) In section 18 (firearms acquired for export)—

(a) in subsection (3), for “by registered post or on the recorded delivery service” substitute “by permitted means”;

(b) after subsection (4) insert—

“(4A) A notice is sent by permitted means for the purposes of subsection (3) if it is sent—

(a) by registered post;

(b) by the recorded delivery service; or

(c) by permitted electronic means (see section 18B).”.

(3) In section 18A (purchase or acquisition of firearms in other member states), for subsection (5) substitute—

“(5) A notice under subsection (1) must be sent—

(a) by registered post,

(b) by the recorded delivery service,

(c) in a case where it is sent from outside Great Britain otherwise than by electronic means, in such manner as most closely corresponds to that described in paragraph (a) or (b), or

(d) by permitted electronic means (see section 18B).”.

(4) After section 18A insert—

“18B. Permitted electronic means

(1) A notice is sent by permitted electronic means for the purposes of section 18 or 18A if—

(a) it is sent by an electronic form of communication which the Secretary of State has directed may be used for the purposes of the section concerned,

(b) it is sent to the electronic address which has been published pursuant to subsection (4), and

(c) subject to subsection (6), the electronic address has not been withdrawn in accordance with subsection (5).

(2) Before giving a direction under subsection (1)(a), the Secretary of State must consult—

(a) the Scottish Ministers,

(b) the Association of Chief Police Officers,

(c) the Association of Chief Police Officers in Scotland, and

(a) 1988 c.45; section 18 was amended, and section 18A inserted, by regulation 9 of S.I. 1992/2823.

(d) such other persons as the Secretary of State is satisfied should be consulted.

(3) The Secretary of State must publish directions given under subsection (1)(a).

(4) A chief officer of police must publish at least one electronic address for each form of electronic communication specified in a direction under subsection (1)(a).

(5) A chief officer of police may withdraw an electronic address published under subsection (4) by publishing a statement to that effect in the same manner as that in which the electronic address was published under subsection (4); but a chief officer of police may exercise the power to withdraw only if, after the withdrawal, there will still be at least one electronic address available for the form of electronic communication concerned.

(6) Where an electronic address has been withdrawn under subsection (5), a notice sent to that electronic address before the end of the period of 28 days beginning with the day after the date of withdrawal is to be treated as complying with subsection (1)(b).”

Amendments to the Firearms (Amendment) Act 1997

4.—(1) The Firearms (Amendment) Act 1997(a) is amended as follows.

(2) In section 33 (notification of transfers involving firearms)—

(a) in subsection (3), for “by registered post or the recorded delivery service” substitute “by permitted means”;

(b) after subsection (3) insert—

“(3A) A notice is sent by permitted means for the purposes of subsection (3) if it is sent—

(a) by registered post;

(b) by the recorded delivery service; or

(c) by permitted electronic means (see section 35A).”

(3) In section 34 (notification of de-activation, destruction or loss of firearms etc)—

(a) in subsection (3), for “by registered post or the recorded delivery service” substitute “by permitted means”;

(b) after subsection (3) insert—

“(3A) A notice is sent by permitted means for the purposes of subsection (3) if it is sent—

(a) by registered post;

(b) by the recorded delivery service; or

(c) by permitted electronic means (see section 35A).”

(4) In section 35 (notification of events taking place outside Great Britain involving firearms etc), for subsection (6) substitute—

“(6) A notice required by this section must be sent within 14 days of the disposal or other event and must be sent—

(a) by registered post,

(b) by the recorded delivery service,

(c) in a case where it is sent from outside the United Kingdom otherwise than by electronic means, in such manner as most closely corresponds to that described in paragraph (a) or (b), or

(d) by permitted electronic means (see section 35A).”

(5) After section 35 insert—

(a) 1997 c.5.

“35A. Permitted electronic means

- (1) A notice is sent by permitted electronic means for the purposes of section 33, 34 or 35 if—
- (a) it is sent by an electronic form of communication which the Secretary of State has directed may be used for the purposes of the section concerned,
 - (b) it is sent to the electronic address which has been published pursuant to subsection (4), and
 - (c) subject to subsection (6), the electronic address has not been withdrawn in accordance with subsection (5).
- (2) Before giving a direction under subsection (1)(a), the Secretary of State must consult—
- (a) the Scottish Ministers,
 - (b) the Association of Chief Police Officers,
 - (c) the Association of Chief Police Officers in Scotland, and
 - (d) such other persons as the Secretary of State is satisfied should be consulted.
- (3) The Secretary of State must publish directions given under subsection (1)(a).
- (4) A chief officer of police must publish at least one electronic address for each form of electronic communication specified in a direction under subsection (1)(a).
- (5) A chief officer of police may withdraw an electronic address published under subsection (4) by publishing a statement to that effect in the same manner as that in which the electronic address was published under subsection (4); but a chief officer of police may exercise the power to withdraw only if, after the withdrawal, there will still be at least one electronic address available for the form of electronic communication concerned.
- (6) Where an electronic address has been withdrawn under subsection (5), a notice sent to that electronic address before the end of the period of 28 days beginning with the day after the date of withdrawal is to be treated as complying with subsection (1)(b).”.

Home Office
9th March 2011

James Brokenshire
Minister of State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Firearms Act 1968, the Firearms (Amendment) Act 1988 and the Firearms (Amendment) Act 1997 (“the Firearms Acts”).

The Order enables certain notices which are required to be sent to the chief officer of police under those Acts to be sent by an electronic communication where certain conditions are met.

The Order also enables a chief officer of police, the Secretary of State or Scottish Ministers to send a notice required or authorised by the Firearms Act 1968 using an electronic communication where certain conditions are met. The subject matter of the Firearms Acts is a reserved matter under the Scotland Act 1998, but certain functions under the Firearms Acts, some of which involve the giving of notices, were transferred to Scottish Ministers under the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 1999 (S.I. 1999/1750).

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Home Office.

STATUTORY INSTRUMENTS

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£4.00