

## **REMOTE FIREARMS TRANSFERS**

### **Introduction**

This fact sheet details how 'remote' (long distance) transactions must work i.e. where a buyer purchases a firearm or shotgun from a dealer/private certificate holder elsewhere in the UK without being present.

### **What the law says**

#### Firearms (Amendment) Act 1997:

*32 - (Transfers of firearms etc. to be in person).*

*(1) This section applies where, in Great Britain—*

*(a) a firearm or ammunition to which section 1 of the 1968 Act applies is sold, let on hire, lent or given by any person, or*

*(b) a shotgun is sold, let on hire or given, or lent for a period of more than 72 hours by any person,*

*to another person who is neither a registered firearms dealer nor a person who is entitled to purchase or acquire the firearm or ammunition without holding a firearm or shotgun certificate or a visitor's firearm or shotgun permit.*

*(2) Where a transfer to which this section applies takes place—*

*(a) the transferee must produce to the transferor the certificate or permit entitling him to purchase or acquire the firearm or ammunition being transferred;*

*(b) the transferor must comply with any instructions contained in the certificate or permit produced by the transferee;*

*(c) the transferor must hand the firearm or ammunition to the transferee, and the transferee must receive it, in person.*

*(3) A failure by the transferor or transferee to comply with subsection (2) above shall be an offence.*

#### Firearms Act 1968 Section 57 (4):

**“Acquire”** means hire, accept as a gift or borrow and “acquisition” shall be construed accordingly.

**“Transfer”** includes let on hire, give, lend and part with possession, and “transferee” and “transferor” shall be construed accordingly.

The Firearms Rules 1998; (Rule 1(6), Part II of Schedule 1, Rule 5(6) and Part II of Schedule 2):

The firearms rules set the “Instructions to anybody who sells, lets on hire, gives or lends firearms or ammunition to the holder” (of a certificate).

Instruction 3 (below) on both a Firearms and Shotgun Certificate; requires the necessary transfer details to be completed by the seller for a long distance sale.

**3.** *Any circumstances attending the transaction which appear to require investigation must be reported within 48 hours to the chief officer of police who granted this certificate. If you are selling a firearm [or shotgun] which will be sent or posted to another dealer for the buyer to collect in person you should complete this table and notify the police. The dealer who actually hands over the firearm should not complete the table or notify the police (except in circumstances which may require police investigation as above).*

### **What the law means**

All certificate instructions provided by the Firearms Rules 1998 are legally binding and supported by Section 32(2)(b) of the Firearms (Amendment) Act 1997.

Accordingly instruction 3 is binding on any seller. Both private and trade sales are caught.

Section 32(2)(a) requires the buyer (transferee) to produce the original certificate to the seller (transferor). This is echoed by a specific offence in Section 3(2) of the Firearms Act 1968 Act. *“It is an offence to sell or transfer to any other person in the United Kingdom, other than a registered firearms dealer, any firearm or ammunition to which Section 1 of this Act applies, or a shotgun, unless that other produces a firearm certificate authorising him to purchase or acquire it or, as the case may be, his shotgun certificate, or shows that he is by virtue of this Act entitled to purchase or acquire it without holding a certificate.”* In the case of a remote (long distance) sale, the certificate will have to be posted to the dealer or private certificate holder selling the firearm. They will endorse it and return it.

Section 32(2)(c) requires a ‘face-to-face’ transfer between all certificate holders and where a dealer sells to a certificate holder. Section 32(1) exempts the face-to-face requirement for a dealer to dealer transfer. Accordingly the firearm cannot be sent to the certificate holders (buyers) home address. This means a selling dealer may freely send the firearm via carrier (courier) to a second dealer for the customer to collect in person. A private seller has two options;

- a) They may send a firearm (through legal postal means) to the dealer in the locality of the buyer.
- b) They may engage their local dealer to act as a ‘bailee’ (a person to whom property is entrusted for a particular purpose by another; such as the forwarding of goods). A dealer will need to use a registered carrier service. Carriers are exempt from the certificate requirement under Section 9 of the Firearms Act 1968.

The following processes apply:

1) The process for private sales by firearm or shotgun certificate holders.

- a) The private seller must make the necessary entries on the buyer's firearm or shotgun certificate and notify the chief officer of police who issued that certificate. Once the transfer is made on paper, the certificate can be returned to the buyer by post.
- b) The seller then sends the firearm to the relevant dealer in the buyers locality to effect the final 'face-to-face' transfer required by Section 32(2)(c) of the 1997 Act. The seller may also utilise his own local dealer to send to the buyer's dealer. (See (c) below)

2) The process for trade (dealer) sale of stock items.

- a) The selling dealer (Dealer A) must make the necessary entries on the buyer's firearm or shotgun certificate and notify the 'sale' to the chief officer of police who issued that certificate. Once the transfer is made on paper, the certificate can be returned to the buyer by post.
- b) The dealer must also make an entry in his dealer's register showing that he has 'sold' the firearm to a customer, which must include;

*"The quantities and descriptions of firearms and ammunition sold or transferred with the names and addresses of the purchasers or transferees and (except in cases where the purchaser or transferee is a registered firearms dealer) the area in which the firearm certificates were issued and the dates of the several transactions." [Firearms Act 1968, Schedule 4 (as amended)].*

The entry must show his transfer to the buyers local dealer (Dealer B) as well as to the customer i.e. "sale to customer via Dealer B".

- c) The seller (Dealer A) may then send the firearm to the relevant dealer in the buyer's locality (Dealer B) to effect the final 'face-to-face' transfer with the buyer required by Section 32(2)(c) of the 1997 Act.

3) The process for Dealer B receiving and transferring firearms to a buyer.

- a) Upon receipt of the firearm, it must be booked into his dealer's register as normal.
- b) When the buyer comes to collect their purchase (with their previously endorsed certificate) the dealer checks the details to ensure he is entitled to take possession of the firearm and hands the firearm over. The 1968 definition of 'transfer' includes "parting with possession" which must be something other than selling, letting on hire, giving or lending. Accordingly; it follows that the procedures set out in Section 32(2) of the 1997 Act do not apply if the transaction is no more than a parting with possession (see 3 below). Therefore there isn't any requirement to notify the police of such a transfer as the certificate instructions would normally require.

- d) 'Parting with possession' does not create a duty to make an entry on the certificate nor to notify the police.
- e) There remains the duty to make the appropriate entry (showing disposal of the firearm) in the dealer's register kept under Section 40 of the 1968 Act perhaps with the reference - "transfer on behalf of Dealer A or certificate holder Z". The entry must include;

*"The quantities and descriptions of firearms and ammunition sold or transferred with the names and addresses of the purchasers or transferees and (except in cases where the purchaser or transferee is a registered firearms dealer) the area in which the firearm certificates were issued and the dates of the several transactions." [Firearms Act 1968, Schedule 4 (as amended)]*

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