

Firearms Expert Committee

Background

In September 2013, a joint Department of Justice and Equality and Garda Síochána Working Group was established to examine firearms licensing issues. The report of the Working Group was presented to the Minister for Justice and Equality and a public consultation took place between November 2014 and January 2015. This review was followed by an announcement by the Minister for Justice and Equality in September 2015 proposing several reforms to firearms licensing in Ireland. Principal among the longer-term measures announced was the intention to establish a Firearms Assessment and Appeals Authority.

One of the proposed functions of the Authority was to determine, on the basis of an objective assessment of all the issues and with safety of the public being paramount, whether particular forms of firearms may be licensed in the State; whether there should be any limit on the number of such firearms; and what safety conditions might properly be applied to their licensing. The proposal received broad support from stakeholders; however, regrettably, it has not proven possible to create this authority on a statutory basis. This led Minister Browne to decide to establish a non-statutory Committee – the Firearms Expert Committee - to carry out the proposed assessment.

Purpose

The report of the Committee will result in an initial determination of the characteristics of the different types of firearms that should be considered acceptable for licensing by An Garda Síochána. The report will also provide guidance on the purposes for which these firearms can normally be expected to be used. The report will provide an authoritative and accepted yardstick for use by the Department of Justice and An Garda Síochána in determining the suitability of licensing firearms within this jurisdiction. Such a report could also be a useful reference point in any future legal proceedings involving licensing decisions on firearms matters.

The firearms legislation grants extensive discretion to Garda Superintendents as decision-makers in assessing such factors as intended use, need, safety and security, and personal character of the applicant. This ensures that firearms licensing is flexible and can adapt to the specific circumstances of each application. However, it also means that there is a large number of decision-makers who are tasked with interpreting the legislation on a day to day basis. The Commissioner's Guidelines have made a positive impact in assisting Superintendents when considering applications, however, they are not exhaustive and large parts of the legislation remain open to interpretation, particularly where new makes and models of firearms are concerned.

The Firearms Expert Committee will, in an independent and objective manner, consider of a number of areas related to firearms licensing, namely how firearms are currently being

licensed and used, how they should be licensed and used and what, if any, additional restriction should apply to the licencing of firearms in the State. This, in turn, would inform Department and AGS policy on firearms and build upon the existing guidelines for Superintendents when considering certificate applications.

National Policy Context

There are stringent controls under Irish legislation for the possession and use of firearms in Ireland. Unlike the position in the United States, there is no constitutional right to bear arms. In *McCarron v. Kearney* [2008] IEHC 195 the High Court (Charlton J.) put the matters as follows:

“No one is entitled to possess a firearm unless they are licensed to do so by the superintendent of An Garda Síochána of the district in which they reside. The possession of every firearm is illegal unless it is authorised by law. The possession of a firearm is not a right, but is a privilege granted in contra-distinction of the prohibition imposed by the Firearms Act, as amended”.

The possession of a firearm must be authorised by An Garda Síochána who may apply conditions under which firearms must be held. Every application for a firearms certificate is considered on its own individual merits and a certificate cannot be issued by a Garda Superintendent unless certain conditions, set out in law, are met. These include, amongst others, that the person can be permitted to possess a firearm without danger to the public safety and that the person has a good reason for requiring the firearm.

Notwithstanding the stringent controls which exist, firearms ownership is not uncommon in Ireland; recent estimates place the number of firearm certificates to be in force at over 200,000. It is understood that the majority of firearms owned in Ireland are shotguns, sought for the purpose of vermin control. However, Ireland also has a significant number of persons who use firearms to engage in other activities, mostly hunting and target shooting. Therefore, while Ireland exercises strict control over firearm use and possession, this does not prevent the possession of firearms by shooters who are seeking to engage in such recreational shooting, though restrictions do apply.

This creates a public policy balancing act. On one hand, we must consider concerns around public safety including those of An Garda Síochána, primarily an unarmed force who are tasked with addressing the criminal use and misuse of firearms; on the other, we must consider the concerns of the shooting community, the vast majority of which possess their firearms in a responsible and safe manner. The work of the Firearms Expert Committee will assist in striking this balance when developing new policies and measures to regulate the possession and use of firearms.