

Title: Impact of Legislative Changes to Firearms Controls: <ol style="list-style-type: none"> Increasing the maximum sentence for importation of illegal firearms (Customs and Excise Management Act 1979); and Increasing the maximum sentence for manufacture, purchase or acquisition, sale or transfer of prohibited firearms or ammunition and introducing a new offence of possession of illegal firearms for sale or transfer (Section 5 of the Firearms Act 1968). IA No: HO0062 Lead department or agency: Home Office Other departments or agencies:	Impact Assessment (IA)
	Date: 22/10/2012
	Stage: Final Stage
	Source of intervention: Domestic
	Type of measure: Primary legislation
	Contact for enquiries: Violent and Youth Crime Prevention Unit, Home Office

Summary: Intervention and Options	RPC Opinion: RPC Opinion Status
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Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as
-£19.0m	0	0	NO	N/A

What is the problem under consideration? Why is government intervention necessary?

In December 2011, in response to submissions by the Association of Chief Police Officers Criminal Use of Firearms group (ACPO CUF) and the National Ballistics Intelligence Service (NABIS), the Home Affairs Select Committee (HASC) on firearms made the recommendation to ‘introduce new offences for supply and importation of firearms to ensure that those guilty of such offences face appropriate penalties.’ NABIS and ACPO argue that prosecutors use section 16 of the Firearms Act 1968 to give the court the possibility of life imprisonment, when the acts of importing and supplying firearms to criminals should by themselves have maximum sentences reflecting the level of criminality involved and the damage done to communities. The Government launched a consultation on 8 February on whether there was a need to change the law. Having reviewed the responses to the consultation the Government has decided to amend section 5 of the Firearms Act 1968 to make it an offence to possess a prohibited weapon or ammunition for sale or for transfer, to separate the current section 5 offence into two components: one encompassing simple possession which would continue to carry a maximum sentence of 10 years, and another component would be the manufacture, purchase or acquisition, and sale or transfer of prohibited weapons or ammunition which would carry life imprisonment. We have also decided to increase the maximum sentence of the illegal importation and of firearms or ammunition under the Customs and Excise Management Act (CEMA) 1979. This assessment sets out the impact of implementing these legislative changes.

Note:

- The Firearms Act 1968 (The Act) does not use the term ‘supply’ so an offence based on this term would look out of place. We will work instead with the existing terms “sale” and “transfer” rather than introduce the term “supply”. “Sale” is not defined in the Act and would carry its normal meaning. “Transfer” is defined in s57 as including “let on hire, give, lend and part with possession”. These terms should be sufficient to cover any conceivable act of supplying a firearm. Throughout this document references to the term “supply” refer to “sale and transfer” within the meaning of the Act.

What are the policy objectives and the intended effects?

At the moment there is no specific offence in relation to possession of firearms or ammunition with intent to “supply”, and such cases can be prosecuted under existing offences of importation (under CEMA) and possession, manufacture, purchase or acquisition and sale or transfer of firearms or ammunition (section 5 of the Firearms Act), which carry a maximum sentence of 10 years. Some cases are also being prosecuted under section 16 of the Firearms Act (possession with intent to endanger life or to enable another person to endanger life) but the mental element is often difficult to prove in trafficking cases. We know that middle men loan or lease illegal firearms and ammunition to criminals. These weapons are used in multiple incidents, by different individuals and in different parts of the country. The number of illegal firearms in circulation is small, but these weapons have a disproportionate impact on our communities because they are used time and time again. The Government is clear that these individuals, the middle men who supply illegal firearms to criminals, should face a punishment commensurate to the level of harm their actions cause to society. Although the evidence on deterrence effect is weak, tougher sentences may contribute to reduce gun crime.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

1. Do nothing
2. Amend section 5 of the Firearms Act 1968 to create a new offence of possession for sale or transfer of prohibited weapons or ammunition with a penalty of [a) life/ b) 14 years], and increase accordingly the maximum sentence for the current offence of manufacture, purchase or acquisition, and sale or transfer prohibited weapons or ammunition
3. Amend section 5 of the Firearms Act 1968 to make it an offence the possession for sale or transfer prohibited weapons or ammunition with a penalty of [a) life/b) 14 years], increase the maximum sentence for the current offence of manufacture, purchase or acquisition, and sale or transfer of prohibited weapons or ammunition to[a) life/b) 14 years] and increase the maximum sentence for importation of firearms or ammunition accordingly

The Government has decided to implement option 3a)

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** As part of normal post-legislative scrutiny

Does implementation go beyond minimum EU requirements?				Yes / No / N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro No	< 20 No	Small No	Medium No	Large No	
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A		

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: _____ Date: _____

Summary: Analysis & Evidence

Policy Option 2a

Description: Create a new offence of possession of illegal firearms or ammunition for sale or transfer with a maximum sentence of life, and increase accordingly the maximum penalty from 10 years to life imprisonment for manufacture, purchase or acquisition, sale or transfer of firearms or ammunition.

FULL ECONOMIC ASSESSMENT

Price Base Year 2010	PV Base Year 2013	Time Period Years 15	Net Benefit (Present Value (PV)) (£m)		
			Low: -9.5	High: -19.0	Best Estimate: -14.3

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low		0.85	9.5
High		1.70	19.0
Best Estimate	0	1.28	14.3

Description and scale of key monetised costs by 'main affected groups'

Cost of an additional 35 (lower bound) to 70 (upper bound) prison and probation places per year in steady state, which is equivalent to annual costs in steady state of between £1.14m and £2.29m from year 12. Average annual cost to prison and probation services over 15 years is £1.28m.

Other key non-monetised costs by 'main affected groups'

Training and familiarisation one-off costs to police forces, courts, the judiciary and the Crown Prosecution Service.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate			N/A

Description and scale of key monetised benefits by 'main affected groups'

It has not been possible to quantify any monetised benefits.

Other key non-monetised benefits by 'main affected groups'

There may be possible benefits to CJS agencies and society through reduction in firearms offences from deterrence and possible short term reductions in offences due to incarceration of offenders. However the evidence of the existence and scale of deterrent and incarceration effects is weak and mixed respectively. As a result we have not quantified this.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

Numbers of offenders affected by the changes are based on estimates from NABIS. It is assumed that there will not be additional offenders/offences; rather, that offenders currently going through the CJS will be charged with different offences and/or given longer sentences. There is a risk that costs to the CJS could be much higher if additional offenders enter the system.

We do not know what sentences those likely to be affected are currently given. The range of baseline sentence levels used reflects this uncertainty but costs may still be smaller or larger than the estimated lower and upper bounds. In addition we have used proxy offences to estimate the sentences those affected are likely to be given. However in reality the actual sentences they are awarded could be higher or lower and as a result costs could be smaller or larger than estimated.

Average costs are for adults. If juveniles are affected then total costs could be higher than estimated.

BUSINESS ASSESSMENT (Option 1a)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	No	NA

Summary: Analysis & Evidence

Policy Option 2b

Description: Create a new offence of possession of illegal firearms for sale or transfer with a maximum sentence of 14 years, and increase the maximum sentence accordingly from 10 to 14 years for manufacture, purchase or acquisition and sale or transfer of prohibited firearms or ammunition.

FULL ECONOMIC ASSESSMENT

Price Base Year 2010	PV Base Year 2013	Time Period Years 15	Net Benefit (Present Value (PV)) (£m)		
			Low: -1.6	High: -3.2	Best Estimate: -2.4

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low		0.14	1.6
High		0.28	3.2
Best Estimate	0	0.21	2.4

Description and scale of key monetised costs by 'main affected groups'

Cost of an additional 5 (lower bound) to 10 (upper bound) prison and probation places per year in steady state, which is equivalent to annual costs in steady state of between £0.16m and £0.33m from year 6..
Average annual cost to prison and probation services over 15 years is £0.21m.

Other key non-monetised costs by 'main affected groups'

Training and familiarisation one-off costs to police forces, courts, the judiciary and the Crown Prosecution Service.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate			N/A

Description and scale of key monetised benefits by 'main affected groups'

It has not been possible to quantify any monetised benefits.

Other key non-monetised benefits by 'main affected groups'

There may be possible benefits to CJS agencies and society through reduction in firearms offences from deterrence and possible short term reductions in offences due to incarceration of offenders. However the evidence of the existence and scale of deterrent and incarceration effects is weak and mixed respectively. As a result we have not quantified this.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

Numbers of offenders affected by the changes are based on estimates from NABIS. It is assumed that there will not be additional offenders/offences. Rather, that offenders currently going through the CJS will be charged with different offences and/or given longer sentences. There is a risk that costs to the CJS could be much higher if additional offenders enter the system.

We do not know what sentences those likely to be affected are currently given. The range of baseline sentence levels used reflects this uncertainty but costs may still be smaller or larger than the estimated lower and upper bounds. In addition we have used proxy offences to estimate the sentences those affected are likely to be given. However in reality the actual sentences they are awarded could be higher or lower and as a result costs could be smaller or larger than estimated.

Average costs are for adults. If juveniles are affected then total costs could be higher than estimated.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	No	NA

Summary: Analysis & Evidence

Policy Option 3a

Description: Increase the maximum penalty for importation offences from 10 years to life, create a new offence of possession of firearms or ammunition for sale or transfer with a maximum sentence of life and increase accordingly the maximum sentence from 10 years to life for manufacture, purchase or acquisition, sale or transfer of illegal firearms or ammunition.

FULL ECONOMIC ASSESSMENT

Price Base Year 2010	PV Base Year 2013	Time Period Years 15	Net Benefit (Present Value (PV)) (£m)		
			Low: -9.5	High: -28.5	Best Estimate: -19.0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low		0.85	9.5
High		2.55	28.5
Best Estimate	0	1.70	19.0

Description and scale of key monetised costs by 'main affected groups'

Cost of an additional 35 (lower bound) to 105 (upper bound) prison and probation places per year in steady state, which is equivalent to annual costs in steady state of between £1.14m and £3.43m from year 12. Average annual cost to prison and probation services over 15 years is £1.70m

Other key non-monetised costs by 'main affected groups'

Training and familiarisation one-off costs to police forces, courts, the judiciary and the Crown Prosecution Service.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate			N/A

Description and scale of key monetised benefits by 'main affected groups'

It has not been possible to quantify any monetised benefits.

Other key non-monetised benefits by 'main affected groups'

There may be possible benefits to CJS agencies and society through reduction in firearms offences from deterrence and possible short term reductions in offences due to incarceration of offenders. However the evidence of the existence and scale of deterrent and incarceration effects is weak and mixed respectively. As a result we have not quantified this.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

Numbers of offenders affected by the changes are based on estimates from NABIS. It is assumed that there will not be additional offenders/offences. Rather, that offenders currently going through the CJS will be charged with different offences and/or given longer sentences. There is a risk that costs to the CJS could be much higher if additional offenders enter the system.

We do not know what sentences those likely to be affected are currently given. The range of baseline sentence levels used reflects this uncertainty but costs may still be smaller or larger than the estimated lower and upper bounds. In addition we have used proxy offences to estimate the sentences those affected are likely to be given. However in reality the actual sentences they are awarded could be higher or lower and as a result costs could be smaller or larger than estimated.

Average costs are for adults. If juveniles are affected then total costs could be higher than estimated.

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
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Costs:

0

Benefits:

0

Net:

0

No

NA

Summary: Analysis & Evidence

Policy Option 3b

Description: Increase the maximum penalty for importation offences from 10 to 14 years and create a new offence of possession of firearms for sale or transfer with a maximum sentence of 14 years, and increase accordingly the maximum sentence from 10 to 14 years for manufacture, purchase or acquisition, sale or transfer of illegal firearms or ammunition.

FULL ECONOMIC ASSESSMENT

Price Base Year 2010	PV Base Year 2013	Time Period Years 15	Net Benefit (Present Value (PV)) (£m)		
			Low: -1.6	High: -4.8	Best Estimate: -3.2

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low		0.14	1.6
High		0.42	4.8
Best Estimate	0	0.28	3.2

Description and scale of key monetised costs by 'main affected groups'

Cost of an additional 5 (lower bound) to 15 (upper bound) prison and probation places per year in steady state, which is equivalent to annual costs in steady state of between £0.16m and £0.49m from year 6
Average annual cost to prison and probation services over 15 years is £0.28m

Other key non-monetised costs by 'main affected groups'

Training and familiarisation one-off costs to police forces, courts, the judiciary and the Crown Prosecution Service.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate			N/A

Description and scale of key monetised benefits by 'main affected groups'

It has not been possible to quantify any monetised benefits.

Other key non-monetised benefits by 'main affected groups'

There may be possible benefits to CJS agencies and society through reduction in firearms offences from deterrence and possible short term reductions in offences due to incarceration of offenders. However the evidence of the existence and scale of deterrent and incarceration effects is weak and mixed respectively. As a result we have not quantified this.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

Numbers of offenders affected by the changes are based on estimates from NABIS. It is assumed that there will not be additional offenders/offences. Rather, that offenders currently going through the CJS will be charged with different offences and/or given longer sentences. There is a risk that costs to the CJS could be much higher if additional offenders enter the system.

We do not know what sentences those likely to be affected are currently given. The range of baseline sentence levels used reflects this uncertainty but costs may still be smaller or larger than the estimated lower and upper bounds. In addition we have used proxy offences to estimate the sentences those affected are likely to be given. However in reality the actual sentences they are awarded could be higher or lower and as a result costs could be smaller or larger than estimated.

Average costs are for adults. If juveniles are affected then total costs could be higher than estimated.

BUSINESS ASSESSMENT (Option 4)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	No	NA

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

The HASC report on Firearms Control, which made a range of recommendations in relation to the control of legal firearms, also included a recommendation to **'introduce new offences for supply and importation of firearms to ensure that those guilty of such offences face appropriate penalties.'** This recommendation followed submission of evidence from ACPO CUF and NABIS to the Committee, in which they argued that sentencing powers for cases involving firearms trafficking should be increased.

Currently there is no specific offence in relation to possession of section 5 firearms with intent to supply. This is inconsistent with the legislation for less dangerous firearms (such as hunting rifles) and shotguns (section 3). Under section 3(1)(b) is an offence having in one's possession for sale/transfer one of the less dangerous types of firearms. People in possession of a firearm can be prosecuted under existing offences of importation under section 170 of CEMA and section 5 of the Firearms Act 1968, which both carry a maximum sentence of ten years. The maximum sentence for importation of illegal firearms (an offence that captures a wide range of behaviours) is ten years imprisonment.

ACPO and NABIS have identified a supply chain involving 'middle men' who store guns readily accessible for criminal use. NABIS estimates that there are a relatively small number of firearms available to criminals, but these weapons are being used in multiple crimes. NABIS maintain that in order to achieve sentences which would reflect the role that this narrow but key group of people play in facilitating gun crime (with all the damage to victims and their communities that that entails), prosecutors are charging with possession of firearms with intent to endanger life in trafficking cases, as this has a maximum sentence of life imprisonment. However, the mental element of this offence has been difficult to prove in "trafficking" cases.

The Government is clear that individuals who manufacture, acquire or purchase, sell or transfer or possess for sale or transfer prohibited guns for criminal use should face a punishment commensurate to the level of harm their actions cause to society. Their actions have a disproportionate effect in our communities and it is right that they should face tougher sentences.

A.2 Groups Affected

The Ministry of Justice is the main government department affected by the changes to the legislation. For the Prison Service, there could be an increase in pressure on prison places due to potentially longer average prison sentences. However, as we assume that all of the offenders will already be going through the Criminal Justice System, it is expected that the additional cost and pressure on the prison estate due to longer sentences would be smaller than if new cases entered the system. In addition, there may be impacts on probation services, as we are assuming that those sentenced will serve half of their sentence in prison and half on probation, except where the sentence is less than 12 months, in which case no probation is served.

There will also be an impact on courts, the judiciary, the Border Force, Her Majesty's Customs and Revenue, the police, who will need to undertake training in the new provisions, as would the Crown Prosecution Service.

A.3 Consultation

We received 96 responses to the consultation with a majority supporting the changes to the legislation outlined in the consultation document: 85% of respondents supported the view that the maximum sentence for illegal importation of firearms should be increased; and 76% supported the view that a new offence of possession with intent to supply is needed and should be introduced. Half of the respondents who supported the creation of a new offence and an increase in the

sentence for importation stated that the maximum sentence should be life. A common statement among respondents with experience in dealing with gun crime was that sentencing provisions for the importation and supply of firearms should be aligned with the importation and supply of class A drugs, which have a maximum sentence of life.

B. Rationale

Although there are no available estimates for the wider costs of gun-related crime, the figure is likely to be very significant. For example, the average cost to society of a homicide is £1.8m of which £1.1m is the physical and emotional impact on the victim and family, £0.5m is lost output, and £0.2m is CJS cost (Home Office costs of crime estimates, 2010 prices). The Government therefore has a key role to play in ensuring that suitable sanctions are imposed, not only on those who use firearms, but also on those who import, supply and possess with the intention to supply firearms.

Offences involving the use of firearms continue to make up a small proportion of recorded crime (0.3% in 2010-11). However, we cannot be complacent: the use of illegal firearms by urban street gangs and organised criminal groups continues to cause concern, particularly in our largest cities.

The consultation sought views on whether the current law strikes the right balance. A majority of respondents (78%) stated that the current firearms sentencing framework does not reflect appropriately the level of criminality involved in firearms trafficking.

C. Objectives

The policy objective is targeting individuals who supply illegal firearms. These individuals make gun crime possible. It is expected that having a more appropriate legal framework will result in tougher sentences which are commensurate with the level of criminality involved. Equally important, victims of firearm related crime, their families, and the wider society may feel better served by the level of punishment delivered by a more appropriate legislative framework for these offences.

D. Options

Option 1 is to make no changes (do nothing)

Section 16 of the Firearms Act 1968 will continue to be used in cases of illegal supply and importation of firearms to give courts the possibility of life imprisonment.

This option has been discounted. The current legal framework does not adequately address at the moment those who possess prohibited firearms for sale or transfer illegal firearms or ammunition. Trying to prosecute these cases under s16, which carries a maximum sentence commensurate with the level of criminality, is not always possible as the mental element of the offence 'intent to endanger life' is difficult to prove.

4. Option 2: Amend the Firearms Act 1998 to make it an offence to possess with intent to sell and transfer prohibited weapons or ammunition with a penalty of [a) life/b) 14 years], increase the maximum sentence accordingly for the current offence of manufacture, purchase or acquisition, and sale or transfer prohibited weapons or ammunition from 10 years to [a) life/b) 14 years].

We know that very small numbers of weapons legally owned are used in crime, which indicates that the vast majority of weapons used in criminal activity are illegally brought into the country. These weapons are brought by individuals who cannot be ignorant that the primary use of the guns they are putting in the criminal market is to kill or to make someone believe they will be killed. This is very serious criminal behaviour which has a disproportionate impact on the victims, their families and the communities

affected. We believe that the current maximum sentence of 10 years does not reflect the level of criminality involved and the maximum should be increased.

We also think that the maximum sentence for importation should be at the same level than the maximum sentence for the new offence of possession for sale or transfer. This is one of the reasons why we have discounted this option. It would be inconsistent that an individual caught at the Border with prohibited firearms and/or ammunition should not face the same maximum sentence than the same individual caught in the country in possession of the same prohibited weapons for sale or transfer.

5. Option 3: Amend the Firearms Act 1998 to make it an offence the possession with intent to sell and transfer prohibited weapons or ammunition with a penalty of [a) life/b) 14 years], increase the maximum sentence accordingly for the current offence of manufacture, purchase or acquisition, and sale or transfer of prohibited weapons or ammunition from 10 years to [a) life/1b) 4 years] and increase the maximum sentence for importation of firearms or ammunition accordingly.

The government has decided to implement option 3a). We believe that those who traffic in illegal firearms should face the tough sentences they deserve, commensurate to the harm they cause to gun crime victims, their families and our communities.

E. Appraisal (Costs and Benefits)

GENERAL ASSUMPTIONS & DATA

Increased penalty for importation offences

- We estimate that the increased sentence for s170 would affect between five and ten existing offenders per year (NABIS). There are no official data to support this assumption but the expert operational knowledge of NABIS is taken to be the next best alternative.
- There is uncertainty around precisely how those likely to be affected by the importation proposal are currently sentenced. We believe that those individuals are currently sentenced under sections and 170 of the Customs and Excise Management Act 1979, and sections 5 and 16 of the Firearms Act 1968:
 -
 - the average sentence length for s170 importation offences was 40 months in 2011;
 - the average sentence length for s5 offences was 38 months in 2011; and
 - the average sentence length for s16 offences was 108 months in 2011 (MoJ sentencing data).
- The average sentence lengths for s16 have been adjusted to take into account the percentage of cases that are sentenced to IPPs or life imprisonment (roughly 7%). A simplifying assumption has then been made that those sentenced to IPPs or life imprisonment would serve at least 15 years in prison, given that the timeframe of assessing impacts in this IA is 15 years.
- There is no evidence to suggest which of these potential baselines is most likely for the affected offenders. Therefore we have modelled a lower bound which assumes that affected offenders are currently sentenced under s16 while our upper bound assumes they are sentenced under s5.
- We also assume that the new average sentence must be at least as high as the current average sentence.
- It is assumed that affected individuals will now be sentenced under an amended s170 offence with a higher maximum sentence of life imprisonment or 14 years. For this reason, we assume that these individuals will receive an average custodial sentence of:
 - a) 108 months – which is the average sentence for s16 offences (which also has a maximum sentence of life) as a proxy for the new offence with a maximum sentence of life, but is then adjusted to account for the fact that 7% will be sentenced to IPPs or life imprisonment)

- b) 49 months – using the average sentence for causing death by dangerous driving (which also has a maximum sentence of 14 years) as a proxy for the new offence with a maximum sentence of 14 years.
(MoJ 2011 sentencing data).

Increase of the maximum sentence for manufacture, purchase or acquisition and sale or transfer under section 5 of the Firearms Act and create a new offence of possession of firearms for sale or transfer

- We estimate that the increase would affect between 10 and 20 offenders per year (NABIS). Again, there are no official data to support this assumption so the expert operational knowledge of NABIS is taken to be the next best alternative.
- It is assumed that those likely to be affected are currently sentenced under s5 of the Firearms Act 1968 and therefore receive an average sentence of 38 months – the average sentence for s5 offences in 2011. This may be as result of the individuals being acquitted of the s16 Firearms Act 1968 offence, but being convicted of the less serious s5 possession offence.
- It is estimated that the average sentence length will increase to either 108 months, which is the average sentence length for s16 offences in 2011 and is then adjusted to take into account that 7% obtain IPPs/ life sentences as a proxy for the new offence with a maximum sentence of life – or 49 months –using the average sentence for causing death by dangerous driving as a proxy for the new offence with a maximum sentence of 14 years (MoJ sentencing data).

Overall assumptions

- It is assumed that half the sentence is served in prison, and half on probation, except where the sentence is for less than 12 months in which case no probation is served.
- For life sentences, probation effectively applies for the rest of the offender's life. For modelling purposes we assume that the average length of probation is equal to the average custodial sentence served. Since this invariably takes the probation time beyond the ten year period appraised, this assumption has little impact on the estimates.
- The cost of a prison place for one year is estimated to be £30,000¹.
- The unit cost of probation resource over one year is estimated to be £2,700².
- The profile of costs over time is based on the time at which *additional* prison places would be needed and a uniform distribution of sentences over each year. Therefore, costs take several years to reach a 'steady state' level.
- No additional impact is assumed on HMCTS, CPS or legal aid services because the volume of offenders and the average court time is estimated to remain the same, only the sentences imposed are expected to change.
- It is assumed that there is no cross over between those offenders estimated to be affected by Option 2 and those estimated to be affected by Option 3.
- The element of increasing the maximum sentence for manufacture, purchase or acquisition, and sale or transfer prohibited weapons or ammunition is not expected to impact any offenders beyond those already estimated to be affected by introduction of the new offence or the increased maximum sentence for importation offences.
- Net present values and average annual costs are calculated over fifteen years rather than the conventional ten years because of the long sentence lengths involved which mean that 'steady state' costs are not reached, in some cases, until after ten years.
- In all instances, the 'best' or 'central' estimate is derived by taking the mid-point of the lower and upper bound estimates.

OPTION 1 – Do nothing

No costs or benefits associated with the 'do nothing' option.

¹ MoJ estimate, costs in 2010/2011 prices.

² Costs are based on the 2008/09 cost in the MoJ Cost Benefit Framework, inflated using HMT data to get 10/11 nominals. These are converted into real figures in 10/11 prices and the SR real efficiencies from 2010/11 are applied on top.

OPTION 2 – Amend the current legal framework by creating a new offence of possession of firearms for sale or transfer and increase the maximum sentence for manufacture, purchase or acquisition, and sale or transfer prohibited weapons or ammunition from [] years

a) Maximum sentence of life

COSTS

The primary costs fall on HM Prison Service with some additional costs to probation services. Additional costs, discounted over a fifteen year period, are shown in table 1 below. These are based on an increase in both prison and probation places of between 35 (lower bound) and 70 (upper bound) per year in the steady state. The discounted present value of those costs over a fifteen year period is £9.5m to £19.0m, with a central estimate of **£14.3m**.

Additional costs take a number of years to reach a steady state since they do not become additional until the sentences served in the baseline (that is, what would have happened without a change in policy) have been completed. In the central estimate, the annual total cost after 12 years, the point at which the steady state is reached, is £1.72m. The *average* annual total cost over the fifteen years is £1.28m.

Table 1. Estimated costs for Option 1a (£m)

	<i>Y0</i>	<i>Y1</i>	<i>Y2</i>	<i>Steady state</i>	<i>Average annual*</i>	<i>NPV*</i>
<i>Lower bound</i>	0	0.03	0.26	1.14	0.85	9.5
<i>Upper bound</i>	0	0.06	0.52	2.29	1.70	19.0
<i>Best estimate</i>	0	0.04	0.39	1.72	1.28	14.3

*Over 15 years

There may also be costs associated with the up-tariffing of other offenders currently sentenced under s.170 due to a new higher maximum sentence length for the offence, or an amended offence. The latest data shows that nine offenders were sentenced under s170 with average sentences significantly below the maximum of ten years. However, we do not know the likely extent of this effect so it remains an unquantified cost.

There may be one-off additional costs to the police and the Crown Prosecution Service, HMCTS from training and familiarisation with the new and amended offences. Such costs are likely to be “opportunity” in nature and would not require additional funding.

BENEFITS

Victims of firearm related crime, their families, and wider society may feel better served by the level of punishment delivered by the CJS.

The measure may result in a decrease in firearms offences due to a deterrent effect from longer sentences. Any benefits from crime reduction would fall primarily on communities since the harms associated with firearm offences tend to be significant. Similarly, benefits could fall on the public sector if fewer prosecutions were brought to court due to a reduction in offences. This would potentially result in a reduction in costs to the Prison and Probation Services. However, the evidence on such deterrent effects is weak and as a result we have not quantified this effect.

Communities and the public sector could also benefit, if the longer incarceration of offenders leads to a reduction in crime. However, there is mixed supporting evidence for this type of effect and any reduction is likely to be temporary, with the gap in the firearms market likely to be filled by other individuals.

ONE-IN-ONE-OUT (OIOO)

N/A. These proposals do not impact on business.

b) Maximum sentence of 14 years

COSTS

As for Option 2a except that the impact would be lower due to a smaller difference between the current and new average sentence lengths.

Costs are based on an increase in both prison and probation places of between 5 (lower bound) and 10 (upper bound) per year in the steady state. In the central estimate, the steady state annual total cost (reached after 6 years) is £0.25m. The average annual total cost over the full fifteen years is £0.21m. The discounted present value of those costs over a fifteen year period is £1.6m to £3.2m, with a central estimate of **£2.4m**.

Table 2. Estimated costs for Option 2b (£m)

	Y0	Y1	Y2	Steady state	Average annual*	NPV*
<i>Lower bound</i>	0	0.03	0.14	0.16	0.14	1.6
<i>Upper bound</i>	0	0.06	0.27	0.33	0.28	3.2
Best estimate	0	0.04	0.20	0.25	0.21	2.4

*Over 15 years

BENEFITS

As for Option 2a though all effects are likely to be smaller in nature due to the less severe nature of the penalty.

ONE-IN-ONE-OUT (OIOO)

N/A. These proposals do not impact on business.

OPTION 3 – Amend the current legal framework by increasing the maximum penalty for importation offences and by creating a new offence of possession of firearms for sale or transfer, and increase the maximum sentence for manufacture, purchase or acquisition, and sale or transfer prohibited weapons or ammunition.

a) Maximum sentence of life

COSTS

The primary costs fall on HM Prison Service with some additional costs to probation services. Additional costs, discounted over a fifteen year period, are shown in table 3 below. These are based on an increase in both prison and probation places of between 35 (lower bound) and 105 (upper bound) per year in the steady state. The discounted present value of those costs over a fifteen year period is £9.5m to £28.5m, with a central estimate of **£19.0m**.

Additional costs take a number of years to reach a steady state since they do not become additional until the sentences served in the baseline (that is, what would have happened without a change in policy) have been completed. In the central estimate, the annual total cost after 12 years, the point at which the steady state is reached, is £2.29m. The average annual total cost over the fifteen years is £1.70m.

Table 3. Estimated costs for Option 3a (£m)

	Y0	Y1	Y2	Steady state	Average annual*	NPV*
<i>Lower bound</i>	0	0.03	0.26	1.14	0.85	9.5
<i>Upper bound</i>	0	0.09	0.78	3.43	2.55	28.5
Best estimate	0	0.06	0.52	2.29	1.70	19.0

*Over 15 years

There may also be costs associated with the up-tariffing of other offenders currently sentenced under s.170 due to a new higher maximum sentence length for the offence, or an amended offence. The latest data shows that nine offenders were sentenced under s170 with average

sentences significantly below the maximum of ten years. However, we do not know the likely extent of this effect so it remains an unquantified cost.

There may be one-off additional costs to the police and the Crown Prosecution Service and HMCTS from training and familiarisation with the new and amended offences. Such costs are likely to be “opportunity” in nature and would not require additional funding.

BENEFITS

Victims of firearm related crime, their families, and wider society may feel better served by the level of punishment delivered by the CJS.

The measure may result in a decrease in firearms offences due to a deterrent effect from longer sentences. Any benefits from crime reduction would fall primarily on communities since the harms associated with firearm offences tend to be significant. Similarly, benefits could fall on the public sector if fewer prosecutions were brought to court due to a reduction in offences. This would potentially result in a reduction in costs to the Prison and Probation Services. However, the evidence on such deterrent effects is weak and as a result we have not quantified this effect.

Communities and the public sector could also benefit, if the longer incarceration of offenders leads to a reduction in crime. However, there is mixed supporting evidence for this type of effect and any reduction is likely to be temporary, with the gap in the firearms market likely to be filled by other individuals.

ONE-IN-ONE-OUT (OIOO)

N/A. These proposals do not impact on business.

b) Maximum sentence of 14 years

COSTS

As for Option 3a except that the impact would be lower due to a smaller difference between the current and new average sentence lengths.

Costs are based on an increase in both prison and probation places of between 5 (lower bound) and 15 (upper bound) per year in the steady state. . In the central estimate, the steady state annual total cost (reached after 6 years) is £0.33m. The *average* annual total cost over the full fifteen years is £0.28m. The discounted present value of those costs over fifteen year period is £1.6m to £4.8m, with a central estimate of **£3.2m**.

Table 4. Estimated costs for Option 3b (£m)

	Y0	Y1	Y2	Steady state	Average annual*	NPV*
<i>Lower bound</i>	0	0.03	0.14	0.16	0.14	1.6
<i>Upper bound</i>	0	0.09	0.41	0.49	0.42	4.8
Best estimate	0	0.06	0.27	0.33	0.28	3.2

*Over 15 years

BENEFITS

As for Option 3a though all effects are likely to be smaller in nature due to the less severe nature of the penalty.

ONE-IN-ONE-OUT (OIOO)

N/A. These proposals do not impact on business.

F. Risks

Option 1- Do Nothing

There is a risk that the Government is perceived to be tackling crime inadequately, and is seen as unresponsive to concerns expressed by the police and ballistic experts. Option 3a is expected to address this risk.

Options 2 and 3

There is a risk that the **numbers affected** by change in legislation could be significantly different from those estimated in the appraisal section. The risk has been mitigated by drawing upon the expert operational knowledge of NABIS in deriving estimates and by modelling a range of scenarios. However, in the absence of solid data, the possibility remains that these estimates might be wrong.

A related risk is that those individuals targeted by the proposals are **not currently prosecuted** for any offence and therefore serve zero prison and probation time in the baseline. If this was the case, then prison/probation costs would be higher than assumed as new cases would effectively enter the criminal justice system. In addition, if targeted individuals are not currently taking up court time, then the proposals could entail additional HMCTS, legal aid and CPS costs that have not been modelled. However, the consulted agencies have not raised any concerns in this regard.

There is a risk that the **increase in actual sentences** served will be different from that assumed. We have used the average sentence lengths for the offences we think those being targeted are currently being convicted of and suitable proxy offences for the sentences they are likely to obtain under the new and amended offences. However, in reality, these targeted cases may be currently getting a higher/ lower than average sentence length, and may end up getting a higher/lower average sentence than assumed using the proxy offences. Hence the impact on prison and probation places may be over/ under estimated.

There is a risk that the proposals might lead to knock-on effects of ‘**up-tariffing**’ in the sentencing of current firearms offences. This could lead to the impact assumed on prison and probation places being underestimated.

There is a risk that **juveniles** (under 18s) might be impacted upon, including by ‘up-tariffing’. Since the costs associated with juvenile offenders are considerably higher than average, the costs estimated in the appraisal section may be underestimates.

G. Enforcement

The changes to legislation will complement the existing legislative framework and operational law enforcement. The changes seek to ensure that the level of punishment available for those involved in the supply chain is appropriate.

H. Summary and Recommendations

The table below outlines the costs and benefits of the proposed changes over a 15 year period.

Option	Costs	Benefits
2a	£14.3m (costs to prison and probation services)	£0m
	One-off training/familiarisation costs to police, courts, Judiciary and CPS (not quantified)	Victims, their families, and wider society may feel better served by the level of punishment delivered by the CJS. Possible crime reduction through incarceration though evidence is mixed.
2b	£2.4m (costs to prison and probation services)	£0m

	One-off training/familiarisation costs to police, courts, Judiciary and CPS (not quantified)	Victims, their families, and wider society may feel better served by the level of punishment delivered by the CJS. Possible crime reduction through incarceration though evidence is mixed.
3a	£19.0 (costs to prison and probation services)	£0m
	One-off training/familiarisation costs to police, courts, Judiciary and CPS (not quantified)	Victims, their families, and wider society may feel better served by the level of punishment delivered by the CJS. Possible crime reduction through incarceration though evidence is mixed.
3b	£3.2m (costs to prison and probation services)	£0m
	One-off training/familiarisation costs to police, courts, Judiciary and CPS (not quantified)	Victims, their families, and wider society may feel better served by the level of punishment delivered by the CJS. Possible crime reduction through incarceration though evidence is mixed.
<p>Source: HO modelling Table presents the total quantified (best estimate) and unquantified costs and benefits for each option, discounted over 15 years. Net present values are calculated over fifteen years rather than the conventional ten years because of the long sentence lengths involved which mean that 'steady state' costs are not reached, in some cases, until after ten years.</p>		

The preferred option, 3a, has a negative net present value. However, the costs of crimes associated with illegal use of firearms are large and it is possible that any reduction in firearm related crime brought about by this option would outweigh the estimated costs. Ensuring punishments are commensurate with the harm caused to communities by these offenders is another unquantified social benefit that needs to be taken into account.

I. Implementation

We intend to implement these changes as soon as a legislative opportunity arises.

J. Monitoring and Evaluation

Normal post-legislative scrutiny will be undertaken to assess the impact of these changes to legislation. Analysis of court data on the use of the new and amended offences will also be conducted.

K. Feedback

The Government will continue to monitor the impact of the measure.

L. Specific Impact Tests

Statutory Equality Duties

A Policy Equality Assessment has been produced as a separate document before the consultation response is published

Social Impacts

Justice

A Justice Impact Test has been produced as a separate document before the consultation response is published.