Section 37 : Possession of air weapon or imitation firearm in public place

3. This section will come into force **on 20 January 2004**. It adds to the list of firearms covered by the offence in section 19 of the Firearms Act 1968 of carrying a firearm in a public place without lawful authority or reasonable excuse. That offence currently applies to loaded shotguns, loaded air weapons or any other firearm (whether loaded or not) together with its ammunition. **Subsection 1 of section 37 adds to this unloaded air weapons and imitation firearms**. Subsection 3 adds the offence to the list of arrestable offences in England and Wales set out in Schedule 1A to the Police and Criminal Evidence Act 1984.

4. **An imitation firearm** is already defined in section 57(4) of the 1968 Act and covers **anything which has the appearance of being a firearm whether or not it is capable of discharging a shot, bullet or other missile**.

5. **A public place** is also defined in section 57(4) of the 1968 Act. It includes any highway and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise.

6. **There is no statutory definition of a reasonable excuse**. This will depend on the facts and circumstances prevailing at the time and police officers will need to exercise discretion when deciding what action, if any, is appropriate in each individual case. It should be borne in mind that the intention of the offence is to protect the public from the misuse of firearms and there is no intention of preventing legitimate activities such as actors using imitations for film or theatrical work or historical re-enactment.

Section 38 : Air weapons – age limits

7. This section also comes into force **on 20 January 2004**. It makes a number of amendments to sections 22, 23 and 24 of the 1968 Act in order to change the age at which a young person may have an air weapon and to strengthen the supervision requirements.

8. Subsection 2 **raises** from 14 **to 17 the age limit** under section 22(4) of the 1968 Act for **a young person to have with him an air weapon or ammunition for an air weapon. This means that no-one under 17 will be able to have with them an air weapon at any time unless supervised by someone who is aged at least 21 or as part of an approved target shooting club or shooting gallery**. The redundant section 22(5) is omitted.

9. Subsection 3 adds to section 23 of the 1968 Act a new exception to the section 22(4) offence. **No offence** will be committed under that section if a young person **aged 14 to 16 is on private premises and has the consent of the occupier to have an air weapon with him**. However it has been made **an offence for anyone** benefiting from this exception to **fire any missile beyond the premises**. Subsection 5 sets the maximum penalty for this offence at a level 3 fine (currently £1,000).

10. Subsection 4 **raises** from 14 **to 17 the age limit** in section 24(4) of the 1968 Act. It therefore becomes **an offence to make a gift of an air weapon, or ammunition** for it, **to a person under 17 or to part with possession of an air weapon or ammunition to a person under 17**, unless the young person benefits from an exception under section 23 of the 1968 Act (for example, the exception for private premises explained in paragraph 9 above).

Section 39 : Prohibition of certain air weapons

11. This section contains a ban on air weapons that use a self-contained gas cartridge system. Subsection 3 adds to section 5(1) of the 1968 Act "any air rifle, air gun or air pistol that uses, or is designed or adapted for use with, a self-contained gas cartridge system". SCGC weapons are often known as "Brococks" after the main UK importer of the weapons (however, not all weapons manufactured or sold by Brocock Limited are SCGC weapons, and there are also other models of SCGC weapon in circulation which were manufactured or sold by other companies). Weapons that use a CO2 bulb system are **not** affected because CO2 bulbs do not contain a projectile and are not therefore self-contained. The effect of adding SCGC weapons to section 5(1) is to make them prohibited weapons which cannot be possessed, purchased, acquired, manufactured, sold or transferred without the authority of the Secretary of State.