

# Firearms – Importation

## Version A based on Transfer and Manufacture guideline

### Improper importation of goods

Customs and Excise Management Act 1979 (section 50(3), (4) and (5A)(a))

### Fraudulent evasion of prohibition / restriction

Customs and Excise Management Act 1979 (section 170(1)(b), (2), (3) and (4A)(a))

Either way

Maximum: 7 years unless committed in Great Britain in connection with a prohibition or restriction on the importation or exportation of any weapon or ammunition that is of a kind mentioned in section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or (1A)(a) of the Firearms Act 1968 in which case the maximum is life imprisonment

Offence range: x –x years' custody

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

**STEP ONE**  
**Determining the offence category**

The court should determine the offence category with reference **only** to the factors listed in the tables below. In order to determine the category the court should assess **culpability** and **harm**.

The court should weigh all the factors set out below in determining the offender's culpability.

**Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.**

**Culpability** demonstrated by one or more of the following:

**A – High culpability:**

- Leading role where offending is part of a group activity
- Significant planning, including but not limited to significant steps to evade detection
- Abuse of position of trust or responsibility, for example ~~registered firearms dealer~~ customs official
- Expectation of substantial financial or other advantage
- Involves others through coercion, intimidation or exploitation

**B – Medium culpability:**

- Significant role where offending is part of a group activity
- Some degree of planning, including but not limited to some steps to evade detection
- Expectation of significant financial or other advantage
- Other cases falling between culpability A and C because:
  - Factors are present in A and C which balance each other out and/or
  - The offender's culpability falls between the factors as described in A and C

**C – Lower culpability:**

- Lesser role where offending is part of a group activity, including but not limited to performing a limited function under direction
- Involved through coercion, intimidation or exploitation
- Little or no planning
- Expectation of limited, if any, financial or other advantage

<b>Harm</b>	
The court should consider the steps set out below to determine the level of harm caused.	
This step is assessed by reference to the <b>scale</b> and <b>nature of the enterprise</b> and any <b>actual harm</b> caused, regardless of the offender's role.	
<b>Category 1</b>	<ul style="list-style-type: none"> <li>• Large-scale commercial enterprise – indicators may include: <ul style="list-style-type: none"> <li>○ Large number of <del>prohibited weapons</del> <u>firearms</u>/ ammunition involved</li> <li>○ <del>Operation over significant time period</del></li> <li>○ Close connection to organised criminal group(s)</li> </ul> </li> <li>• Evidence firearm/ammunition <u>intended for use in criminal activity</u> <del>subsequently used to cause serious injury or death</del></li> </ul>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>• Medium-scale enterprise and/or some degree of sophistication, including cases falling between category 1 and category 3 because: <ul style="list-style-type: none"> <li>○ Factors in both 1 and 3 are present which balance each other out; and/or</li> <li>○ The harm falls between the factors as described in 1 and 3</li> </ul> </li> <li>• <del>Evidence firearm/ammunition subsequently used in criminal offending (where not at category 1)</del></li> </ul>
<b>Category 3</b>	<ul style="list-style-type: none"> <li>• Smaller-scale and/or unsophisticated enterprise – indicators may include: <ul style="list-style-type: none"> <li>○ Limited number of <del>prohibited weapons</del> <u>firearms</u>/ ammunition involved</li> <li>○ <del>Operation over limited time period</del></li> <li>○ <del>Operation over limited geographic range</del></li> <li>○ Minimal/no connection to organised criminal group(s)</li> </ul> </li> <li>• Evidence firearm/ammunition not <u>subsequently intended for use in criminal activity</u> <del>used in criminal offending</del></li> </ul>
<b>Category 4</b>	<ul style="list-style-type: none"> <li>• <u>Very small scale</u></li> <li>• <u>Firearm / ammunition not designed to be lethal</u></li> </ul>

Where there are characteristics present which fall under different levels of harm, the court should balance these characteristics to reach a fair assessment of the harm.

<b>STEP TWO</b>			
<b>Starting point and category range</b>			
Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions.			
<b>Harm</b>	<b>Culpability</b>		
	<b>A</b>	<b>B</b>	<b>C</b>
<b>Category 1</b>	<b>Starting point</b> 20 years' custody <b>Category range</b> 16 – 28 years' custody	<b>Starting point</b> 14 years' custody <b>Category range</b> 12 – 18 years' custody	<b>Starting point</b> 10 years' custody <b>Category range</b> 8 – 14 years' custody
<b>Category 2</b>	<b>Starting point</b> 14 years' custody <b>Category range</b> 12 – 18 years' custody	<b>Starting point</b> 10 years' custody <b>Category range</b> 8 – 14 years' custody	<b>Starting point</b> 8 years' custody <b>Category range</b> 6 – 12 years' custody
<b>Category 3</b>	<b>Starting point</b> 10 years' custody <b>Category range</b> 8 – 14 years' custody	<b>Starting point</b> 8 years' custody <b>Category range</b> 6 – 12 years' custody	<b>Starting point</b> 6 years' custody <b>Category range</b> 3 – 8 years' custody
<b>Category 4</b>	<b>Starting point</b> <u>6 years' custody</u> <b>Category range</b> <u>3 – 8 years' custody</u>	<b>Starting point</b> <u>3 years' custody</u> <b>Category range</b> <u>1 – 4 years' custody</u>	<b>Starting point</b> <u>1 year's custody</u> <b>Category range</b> <u>Community order – 2 years' custody</u>

The table below contains a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the sentence arrived at so far. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

### Factors increasing seriousness

#### **Statutory aggravating factors:**

- A1. Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- A2. Offence committed whilst on bail

#### **Other aggravating factors:**

- A3. Firearm under section 5(1)(a) (automatic weapon)
- A4. Steps taken to disguise firearm (where not firearm under section 5(1A)(a))
- A5. Compatible ammunition and/or silencer(s) supplied imported with firearm (See step six on totality when sentencing for more than one offence)

- A6. Others put at risk of harm, ~~including by location or method of manufacture or transfer~~
- A7. Use of business as a cover
- A8. Attempts to conceal or dispose of the firearm or other evidence
- A9. Commission of offence whilst under the influence of alcohol or drugs
- A10. Offender prohibited from possessing weapon or ammunition because of previous conviction (See step six on totality when sentencing for more than one offence)
- A11. Failure to comply with current court orders
- A12. Offence committed on licence or post sentence supervision

**Factors reducing seriousness or reflecting personal mitigation**

- M1. No previous convictions **or** no relevant/recent convictions
- M2. Good character and/or exemplary conduct
- M3. Firearm/ammunition not ~~subject to minimum term~~ designed to be lethal
- M4. Firearm incomplete or incapable of being discharged (including stun gun that is not charged and not held with a functioning charger)
- M5. Genuine belief that firearm will not be used for criminal purpose
- M6. No knowledge or suspicion that item possessed was firearm/ammunition
- M7. No knowledge or suspicion that firearm/ammunition is prohibited
- ~~M8. Voluntary surrender of firearm/ammunition~~
- M9. Offender co-operated with investigation and/or made early admissions
- M10. Remorse
- M11. Serious medical condition requiring urgent, intensive or long-term treatment
- M12. Age and/or lack of maturity
- M13. Mental disorder or learning disability
- M14. Sole or primary carer for dependent relatives

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