

Firearms – Importation

Version B based on Possession of a prohibited weapon 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 1 – 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**.

Culpability – Type of weapon

Use the table below to identify an initial culpability category based on the **type of weapon** only. This assessment focuses on the nature of the weapon itself only, not whether the weapon was loaded or in working order.

Courts should take care to ensure the categorisation is appropriate for the specific weapon. Where the weapon or ammunition does not fall squarely in one category, the court may need to adjust the starting point in step 2.

References to weapon below include a component part of such a weapon.

Type 1

Weapon that is designed to be capable of killing two or more people at the same time or in rapid succession

- This would **normally** include a weapon prohibited under the following sections for the Firearms Act 1968:
 - section 5(1)(a)
 - section 5(1)(ab)
 - section 5(1)(aba)
 - section 5(1)(ac)
 - section 5(1)(ad)
 - section 5(1)(ae)
 - section 5(1A)(c)
 - [section 5(1)(ag) – not yet in force]
 - [section 5(1)(ba) – not yet in force]

Type 2

All other weapons falling between Type 1 and Type 3

- This would **normally** include a weapon prohibited under the following sections for the Firearms Act 1968:
 - section 5(1)(af)
 - section 5(1A)(a) (including disguised stun guns when charged under that section)

Ammunition under section 5(1)(c), 5(1A)(b) and (d)-(g) (where not at Type 3)

Type 3

Weapon that is not designed to be lethal

- This would **normally** include a weapon under section 5(1)(b)

Very small quantity of ammunition

<p>Culpability – Other culpability factors</p> <p>The court should weigh all the factors set out below in determining the offender’s culpability.</p> <p>High culpability</p> <ul style="list-style-type: none"> • Offender uses firearm/ammunition for a criminal purpose • Offender intends firearm/ammunition to be used for a criminal purpose, or is reckless as to whether it would be so used <p>Medium culpability</p> <ul style="list-style-type: none"> • Firearm/ammunition produced or used (where not at High culpability) • Firearm loaded or held with compatible ammunition or stun gun that is charged (where not at High culpability) • Offender intends firearm/ammunition to be used or is reckless as to whether it would be used (where not at High culpability) <p>Lower culpability</p> <ul style="list-style-type: none"> • No use or intention to use

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 category

Identify the final culpability category in the table below, considering both the **Type of weapon** and **Other culpability factors**.

	Type of weapon		
Other culpability factors	1	2	3
High	Culpability category A	Culpability category A	Culpability category B
Medium	Culpability category B	Culpability category B	Culpability category B
Lower	Culpability category B	Culpability category C	Culpability category C

<p>Harm</p> <p>Harm is assessed by reference to the risk of harm or disorder occurring and/or actual alarm/distress caused.</p> <p>When considering the risk of harm, relevant considerations may include the location of the offence, the number and vulnerability of people exposed, especially children, and the accessibility and visibility of the weapon.</p> <p>Category 1</p> <ul style="list-style-type: none"> • Serious alarm/distress caused • High risk of death or serious physical or psychological harm • High risk of serious disorder
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<p>Category 2</p> <ul style="list-style-type: none"> • All other cases falling between category 1 and category 3 because: <ul style="list-style-type: none"> ○ Factors in both 1 and 3 are present which balance each other out; and/or ○ The harm falls between the factors as described in 1 and 3
<p>Category 3</p> <ul style="list-style-type: none"> • No/minimal alarm/distress caused • No/minimal risk of death or serious physical or psychological harm • No/minimal risk of serious disorder

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.

Step 2 – Starting point and category range

Having determined the category at step 1, 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.

Table 1 should be used if the offence is subject to a maximum life sentence statutory minimum sentencing provisions.

Table 2 should be used if the offence is subject to a maximum 7 year sentence for all other cases.

TABLE 1: Offences subject to the statutory maximum of a life sentence minimum sentence (Section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af), (c), section 5(1A)(a))

Harm	Culpability		
	A	B	C
Category 1	<p>Starting point 18 years' custody</p> <p>Category range 16 – 22 years' custody</p>	<p>Starting point 14 years' custody</p> <p>Category range 11 – 17 years' custody</p>	<p>Starting point 10 years' custody</p> <p>Category range 8 – 12 years' custody</p>
Category 2	<p>Starting point 14 years' custody</p> <p>Category range 11 – 17 years' custody</p>	<p>Starting point 10 years' custody</p> <p>Category range 8 – 12 years' custody</p>	<p>Starting point 7 years' custody</p> <p>Category range 5 – 9 years' custody</p>
Category 3	<p>Starting point 10 years' custody</p> <p>Category range 8 – 12 years' custody</p>	<p>Starting point 7 years' custody</p> <p>Category range 5 – 9 years' custody</p>	<p>Starting point 5 years' custody</p> <p>Category range 4 – 7 years' custody</p>

TABLE 2: Offences not subject to the statutory ~~minimum~~ maximum sentence of 7 years

Harm	Culpability		
	A	B	C
Category 1	Starting point 3 years' custody Category range 2 – 5 years' custody	Starting point 2 years' custody Category range 1 – 3 years' custody	Starting point 1 year's custody Category range High level community order – 2 years' custody
Category 2	Starting point 2 years' custody Category range 1 – 3 years' custody	Starting point 1 year's custody Category range High level community order – 2 years' custody	Starting point Medium level community order Category range Band C fine – High level community order
Category 3	Starting point 1 year's custody Category range High level community order – 2 years' custody	Starting point Medium level community order Category range Band C fine – High level community order	Starting point Band C fine Category range Discharge – Low level community order

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 modified to make it more dangerous
- A4. Steps taken to disguise firearm (where not firearm under section 5(1A)(a))
- A5. Firearm/ammunition kept imported with multiple weapons and/or substantial quantity of ammunition (See step 6 on totality when sentencing more than one offence.)
- A6. Offence was committed as part of a group
- A7. Involvement by the offender of others through coercion, intimidation or exploitation
- A8. Abuse of position as registered firearms dealer, certificate holder or other authorised user

- A9. Commission of offence whilst under the influence of alcohol or drugs
- A10. Offender prohibited from possessing weapon or ammunition because of previous conviction (Care should be taken to avoid double counting matters taken into account when considering previous convictions. See step 6 on totality when sentencing 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 incomplete or incapable of being discharged (including stun gun that is not charged and not held with a functioning charger)
- M4. No knowledge or suspicion that item possessed was firearm/ammunition
- M5. No knowledge or suspicion that firearm/ammunition is prohibited
- M6. Held on behalf of another through coercion, intimidation, or exploitation
- M7. Voluntary surrender of firearm/ammunition
- M8. Offender co-operated with investigation and/or made early admissions
- M9. Remorse
- M10. Serious medical condition requiring urgent, intensive or long-term treatment
- M11. Age and/or lack of maturity
- M12. Mental disorder or learning disability
- M13. Sole or primary carer for dependent relatives