

MINI FLARE NOTES

MINI FLARE KIT

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HYPOTHESIS: IT IS NOT A FIREARM

MINI FLARE KIT



Pic 1 Mini flare kit and launcher (lab exhibit A6157)



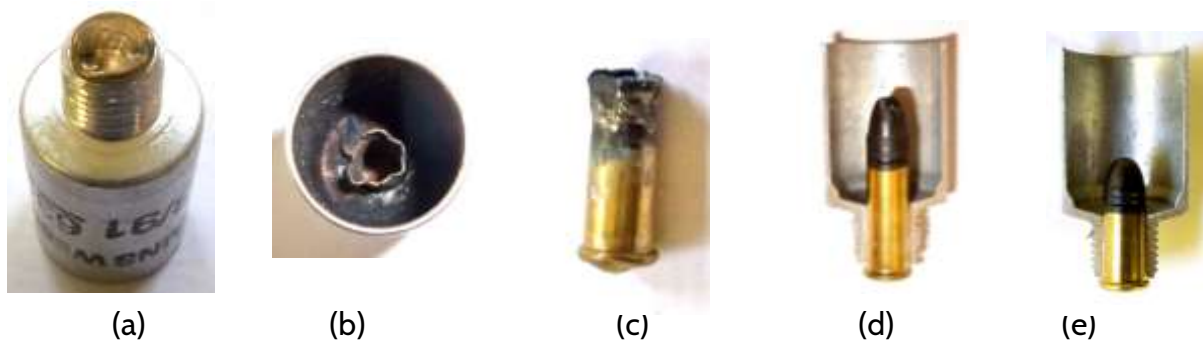
Pic 2 8 red flares (lab exhibit A6157)

- 1] The pen type signal flare is designed specifically to propel signal flares. To be a firearm subject to the Firearms Acts it must be a "*lethal barrelled weapon*".⁽⁰¹⁾
- 2] Section 1-(2) of The Firearms (Amendment) Act 1997 says:
 "A *firearm designed as a signalling apparatus*".⁽⁰²⁾ This could be considered a contradiction e.g. an item designed to be a flare pistol, loaded from the breech with a round (flare) is a pyrotechnic device not a weapon (opinion). It could of course be used as a weapon but so can a firework which has a tube and discharges a flare/illuminating material.

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- 3] The pen type signal flare (non-spigot type), has a thumb drawn striker type firing device that has a threaded end that accepts a flare cup. This cup contains the flare and a .22 rim fire long blank. When fired, the blank cartridge ignites the propelling charge in the flare and propels the flare from the cup in the direction it is pointed.
- 4] This device is of the type supplied to the MoD, and is used for signalling, for operations and for distress.
- 5] The fact that a fired flare cup can be modified and reloaded as ammunition and used as a weapon, doesn't alter the fact that it is designed and manufactured to be used for firing the flare from a flare cup which is designed to be discarded after use.
- 6] The flare cup can be converted and is "readily convertible". It is not subject to the provisions of the 1982 Firearms Act because it is not an imitation firearm.
- 7] Is the flare cup a barrel? R-v-Singh 1989 ⁽⁰³⁾ says yes, however a device having a barrel does not make it a weapon, for instance a soft airgun is not regarded as a weapon.
- 8] Some fireworks are designed to fire a flare from a tube, they are not designed to be re-loadable, the same could be said for a parachute flare.
- 9] Section 108 of The Gun Barrel Proof Act 1868 requires every barrel to be proved and duly marked as proved before it can be sold or exported. ⁽⁰⁴⁾
- 10] If a flare cup was recognised as a barrel by the body entrusted to ensure public safety the Proof Houses authorised by an Act of Parliament, (The Gun Barrel Proof Act 1868), then the flare cup must be duly proofed and marked, it is not.
- 11] C.I.P. homologation mark allowed by C.I.P. for certain blank cartridge operated tools are shown in appendix 111 (Rules and Regulations 2006), ⁽⁰⁵⁾ the flare cup is not marked accordingly and therefore has not been homologated.
- 12] The signal flare (pen type) is not a firearm designed as a signalling apparatus, it is signalling apparatus.

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Pic 3 Mini flare similar to those in pic 2 showing fired flare container with fired blank (a), fired blank inside the container (b), removed fired blank (c), sectioned flare container with .22 l.r. ammunition inserted (d), sectioned flare container with .22 short ammunition inserted (e)

- 13] When the flare is fired from the mini flare launcher (.22 rim fire type). The .22 rim fire blank which is staked into place when the flare is assembled pic 3 (a) splits in the front section pic 3 (b).
- 14] The fired cartridge case is not removable in the same way ammunition is removable from a firearm and is fixed in place. To remove it requires a hammer and drift, the removed case is shown in pic 3 (c).
- 15] Pic 3 (d) shows a sectioned fired flare container with a .22 l.r. round of ammunition placed in the "chamber". A barrel consists of a tube that imparts directional stability to a projectile (the projectile will fly in the direction the tube is pointed). The part of a barrel that contains a cartridge/primer to propel and ignite the projectile is the "chamber". Both chamber and barrel would normally have to withstand the pressure of firing.
- 16] In the case of a re-loaded flare container the container section has no function and the spigot section only offers support to the section that surrounds the .22 cartridge case, the bullet in both .22l.r. and .22 short ammunition are unsupported.

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- 17] The signal flare (pen type) is not designed and manufactured for use as a weapon.
- 18] The 'barrel' is not a barrel as recognised by the Gun Barrel Proof Acts, as it is not proved. (The manufacturer would be committing an offence if he sold an unproved barrel, Section 108 Gun Barrel Proof Act 1868).⁽⁰³⁾
- 19] The flare container is not designed or manufactured to be reloaded.
- 20] The signal flare (pen type) is not subject to control by the Firearms Acts (opinion).
- 21] Lethality is not an issue that needs to be considered for pyrotechnic devices because they are not firearms.
- 22] The reason for the common practice of declaring the mini flare kit subject to section 1 control, is for the reason it can be modified by being loaded with a .22 round of ammunition (opinion).
- 23] The Spigot type flare kit discharger (pic 6) is capable of launching flares. This is commonly declared as not being a firearm and not requiring authority to possess. It propels the flare using a shot gun primer to ignite the propellant, if the flare type kit is considered to be a firearm, the spigot type being very similar could be considered an imitation, and therefore subject to the provisions of the 1982 Firearms Act, as it is reloadable (opinion).
- 24] The difference between the Spigot type flare launcher and the mini flare kit is that the mini flare kit uses a .22 blank to ignite the gun powder and propel the flare and the spigot type uses a shot gun primer (centre fire) to ignite the propellant used to propel the flare.
- 25] Home Office Guidance to Police 2014 says:
- 2.55 "In the absence of a decision by a court, the Secretary of State takes the view that the following devices should not be regarded as firearms within the definition of the Act:*
- f) rocket signal and illuminating devices (but not signalling pistols or hand held devices using cartridges, and which discharge a signal or illuminating load from a fixed barrel)".*
- ⁽⁰⁶⁾
- 26] Blank cartridges designed to be used in firearms are ammunition (section 57-(2)).⁽⁰⁷⁾

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- 27] A .22 crimped blank is used in the flare to ignite and propel the flare, not all blank cartridges are designed to be used in or as ammunition.



Pic 4 Blank cartridges designed to be used to start engines



Pic 5 Blank cartridges used to “fire form” dental plates and other products requiring a similar “blast” to form shapes

- 28] The blank .22 cartridge used in the flare is a component of that flare in the same way a shot gun cartridge primer is a component of the cartridge.
- 29] The status of the blank used could be subject to differing opinions, the ultimate arbiter is the court.
- 30] The Home Office Guidance is just that, and is flawed because there is no fixed barrel, the guidance doesn't explain what a fixed barrel is (opinion).
- 31] If the flare housed within its container is regarded as ammunition: you cannot have a “lethal barrelled ammunition”.

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- 32] Section 1 of the Firearms Act 1968 as amended deals with general restrictions on the possession and handling of firearms and ammunition.
- 33] For ammunition to be subject to section 1 of the Firearms Act it must be ammunition for a Firearm (section 57-(2)).⁽⁰⁷⁾ There are exemptions from section 1 control for instance (section 1-(4)⁽⁰⁸⁾ and section 5 – (1)(b)).⁽⁰⁹⁾
- 34] For the flares to be “*ammunition*” requiring section 1 control the launchers would have to be “firearms”, firearms have to be lethal barrelled and also have to be weapons.⁽¹⁰⁾
- 35] Ammunition cannot be part of a firearm, it is ammunition for a firearm. A barrel is part of a firearm, it is not part of ammunition.
- 36] A barrel for a firearm must be entered into a firearms register, a barrel is a major component part of a firearm,⁽¹⁰⁾ and defined as a firearm.⁽¹⁹⁾
- 37] Spent (fired) signal flare containers are not recorded as firearms by anyone (opinion).
- 38] The signal kits shown in picture 1 and 2 are used by the U.K. MoD, the picture in the additional sheet (page 17) is for non-military use (opinion).
- 39] The pen launcher has no serial number.
- 40] The MoD controls the signal kit as pyrotechnics in the same way as they control other pyrotechnics and explosives.
- 41] They are not entered in MoD firearms registers as firearms, and not controlled as such.⁽¹¹⁾
- 42] The manufacturer states “*these are sold as pyrotechnics and not firearms*”.⁽¹²⁾

MINI FLARE KIT (SPIGOT TYPE)

REGARDED AS NOT A FIREARM BY ACPO AND OTHERS.



Pic 6 Compact distress signalling mini flare MK8 using a spigot type mechanism and a centre fire shot gun primer to ignite the propellant (lab exhibit A20311)

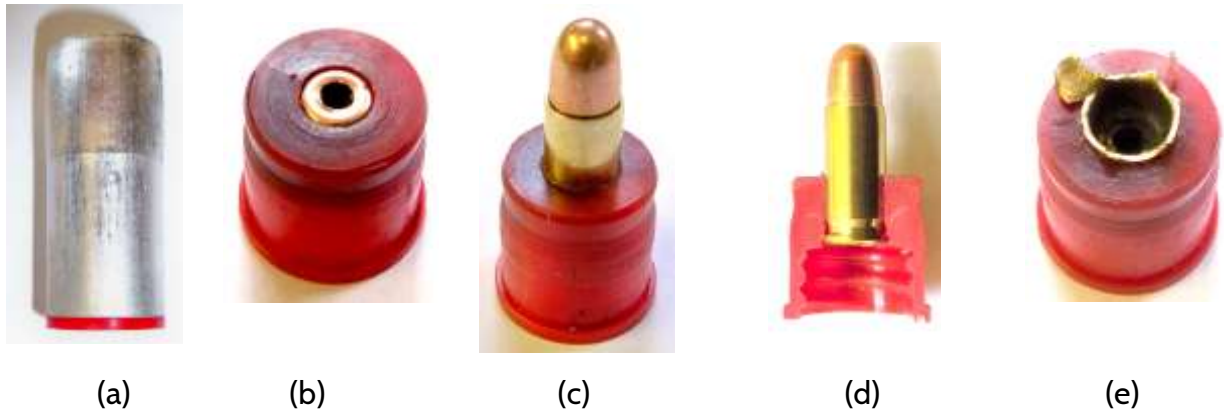


Pic 7 What a star distress signal device (lab exhibit 66517)



Pic 8 Spigot type compact distress signal mini flare kit using a spigot type mechanism and a centre fire shot gun primer to ignite the propellant (lab exhibit 251)

MINI FLARE KIT (SPIGOT TYPE)



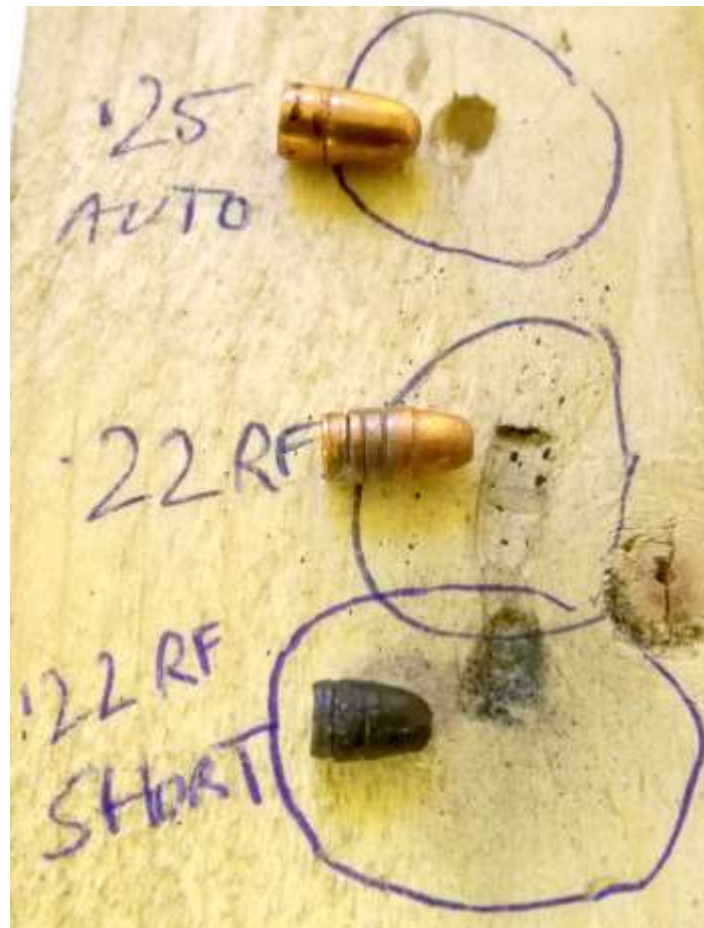
Pic 9 Flare assembled before firing (a), remaining section of flare after firing (b), remaining section with a .25 ACP round loaded (c), remaining section (sectioned) with .25 ACP ammo fitted (d), remaining section after .25 ACP round is fired (e)



Pic 10 Spigot type flare launcher with flare remains fitted with a .25 ACP round of ammunition (lab exhibit A6157), demonstrating this type of flare launcher can be 'reloaded'.

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- 43] The result of firing the .22 l.r., .22 short and .25 ACP rounds of ammunition is shown in pic 11.



Pic 11 Soft wood showing impact marks from the firing of .22 l.r., .22 short and .25 ACP ammunition at a range of 12 inches

MINI FLARE KIT SUMMARY (NOT A FIREARM)

- 44] The mini flare kit (pic 1) is signalling apparatus in exactly the same way as the spigot signalling apparatus (pic 6,7 and 8) (opinion).
- 45] The spigot type mini flare is similar to the flare kit shown in pic 1, other than the remaining section after the flare is fired is that one has the flare container section remaining pic 3 (d) and the other is left flush with no container pic 9 (b).
- 46] The container section of the fired flare has no influence on the projectile of the re-loaded round of ammunition. In both fired flare remains the bullet protrudes in "fresh air". Pic 3 (d) and (e) and pic 9 (c) and (d) shows sectioned container and the remaining section with live rounds inserted.
- 47] The section containing the flare container could be described as a barrel and could be reloaded with another flare, although it is only designed for a one off firing, if re-loaded with a flare and blank it remains a pyrotechnic, if loaded with a .22 round ammunition there is no actual barrel.
- 48] The MoD do not control the mini flare kit as a firearm, they are controlled as an explosive article. ⁽¹¹⁾
- 49] The manufacturer does not control the pen launcher as a firearm and enter it in a firearms register on completion of manufacturer, also it does not have a unique serial number the manufacturer does not record the flares as barrels for firearms.
- 50] If the flare holder was regarded as a barrel for a firearm, all fired flares would have to be accounted for on a firearm register or firearms certificate as "barrels", and authority to possess a mini flare kit on a firearms certificate would require each flare to be recorded as a barrel.
- 51] As the manufacturer does not regard the MoD type mini flare kit as a firearm, and has supplied them for many years as pyrotechnics, also that the signal flare is not designed or supplied as a weapon, it cannot satisfy section 57-(1) of the Firearms Act 1968 (definition of a firearm). ⁽⁰¹⁾ (opinion).

HYPOTHESIS: IT IS A FIREARM

52] To be a firearm the mini flare kit needs to be a “lethal barrellled weapon”.



(a)

(b)

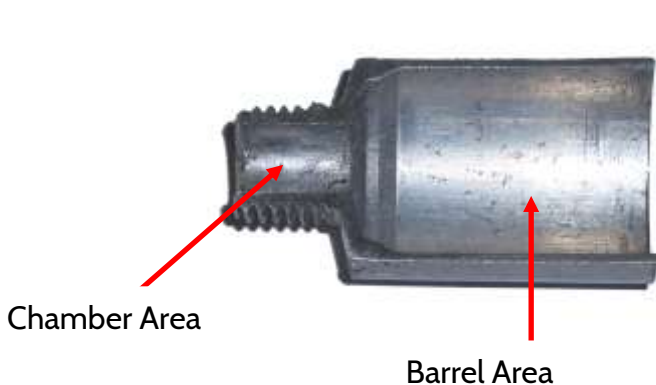
(c)

(d)

Pic 12 Mini flare components: .22 blank cartridge (a), barrel and chamber (b), flare in its container (c), over card seal (d)

53] The .22 blank cartridge pic 12 (a) is the initiator for the flare, the flame produced by the black powder blank ignites the black powder charge contained in the base of the flare, the combined “explosion” propels the flare container from the barrel to a height of approximately 52 meters. ⁽¹³⁾

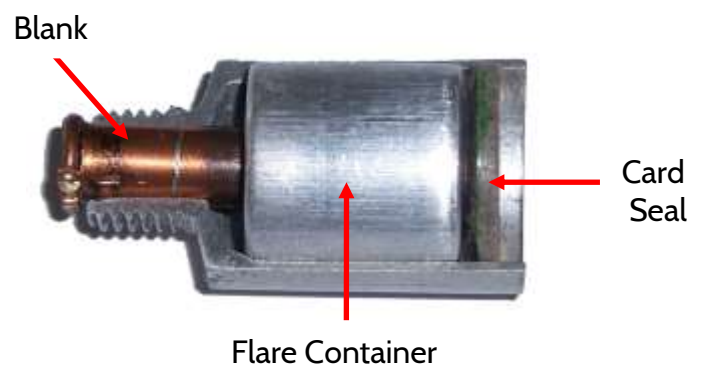
54] The flare in its inner container pic 12 (c) holds the flare composition, a priming composition and the black powder propelling charge, the container is held in place with a card disc pic 12 (d) and sealed with a coloured varnish.



Chamber Area

Barrel Area

Pic 13 Sectioned flare showing the chamber area (with the blank removed) and the barrel area (with the flare container removed)



Blank

Card Seal

Flare Container

Pic 14 Sectioned flare showing blank, flare container and card seal in place

HYPOTHESIS: IT IS A FIREARM

- 55] The signal cartridge is the barrel assembly that fits onto the “firing pistol” to complete the firearm, so the kit comprises of a firing pistol and eight pre-loaded barrels.



Pic 15 Firing pistol comprising of body, firing pin and firing pin spring

- 56] The flare container constitutes the projectile, fired from the barrel by explosive force (the barrel imparts directional stability to the projectile and has to contain the pressure of firing).
- 57] The projectile would cause more than a trivial injury if fired at the face of a person at close range and would therefore satisfy “lethal barrelled” as required in the definition of a firearm, a stated case concerning lethality is *Moore-v-Gooderham*,⁽¹⁴⁾ the fired flare would produce more than one joule of energy at the muzzle (opinion).
- 58] The mini flare has a short smooth bore barrel, less than 30 cm in length, it is exempt from the provisions of section 5-(1)(aba) as it is a firearm designed as “*signalling apparatus*”.⁽¹⁵⁾

MINI FLARE KIT SUMMARY (IS A FIREARM)

- 59] The mini flare barrel and chamber is pre-loaded with a flare container and blank cartridge (pic 14).
- 60] Blank cartridges are ammunition, (Section 1-(1)(4)(c)).⁽¹⁶⁾
- 61] The smooth bore barrel is loaded with a single projectile (the flare container).
- 62] The fired flare barrel can be reloaded easily with ammunition and used as a weapon, it therefore requires to be controlled for public safety (opinion).
- 63] The mini flare is concealable and can be purchased for use as a weapon as well as for signalling, as it can be used for both purposes it therefore requires control (opinion).
- 64] The Firearms Act 1968 exists for:

"Provisions as to possession, handling and distribution of weapons and ammunition; prevention of crime and measures to protect public safety".⁽¹⁷⁾

SUMMARY OF POINTS TO CONSIDER

- 65] The mini flare kit as shown in pic 1 is designed for use as signalling apparatus, it is sold to the UK military for this purpose, it is sold as *“pyrotechnics and not firearms”*.⁽¹²⁾ This is confirmed by the design authority (the manufacturer).⁽¹²⁾
- 66] *“Consumer pyrotechnics are devices readily available for purchase to the general public with little or no special licensing or training. These items are considered relatively low hazard devices but, like all pyrotechnics, can still be hazardous and should be stored, handled and used appropriately”*.⁽¹⁸⁾
- 67] Many pyrotechnics devices have a “barrel”, some fireworks/flares are propelled by “explosion” others by rocket motors, many of the flares and other pyrotechnics when launched have lethal potential, some like the parachute flare have when they have been used incorrectly caused a lethal injury to a human.
- 68] For the mini flare kit to be a firearm as defined in the Firearms Act 1968 as amended it must be a lethal barrelled *“weapon”*.⁽⁰¹⁾
- 69] Whilst the mini flare can satisfy *“lethal”* and possibly *“barrelled”* it is not designed or supplied as a *“weapon”* and therefore does not satisfy the criteria *“firearm”* as defined in the Firearms Act 1968 as amended.
- 70] The manufacturer and users of the mini flare kit have never considered the device to be a firearm, and they have never been supplied, stored or controlled by the requirements of the Firearms Acts as firearms.
- 71] The flares if considered ammunition have to be *“ammunition for a firearm”* to require control by the Firearms Acts, however they are considered to be explosive articles by the MoD for example, and therefore subject to control by the explosives legislation.
- 72] A firearm is defined as a lethal barrelled weapon, ammunition for a firearm is ammunition, Ammunition cannot be a lethal barrelled weapon (opinion).
- 73] The court is the ultimate authority when considering conflicting opinions.
- 74] The above examination of mini flares and the contents concerning their status may help you form an opinion, ultimately the mini flare kit would have to fulfil the description *“lethal barrelled weapon”* to be subject to the provisions of the Firearms Acts, as a *“firearm”*.

ADDITION TO DISCUSSION DOCUMENT REF 15035/TP/MF

MINI FLARE KIT



Pic 1 Mini flare kit and launcher (lab exhibit SP7855)

- 1] This signalling kit is supplied in a red plastic container, the same design and dimensions as the green 'military' version shown in Pic 1 and 2 of discussion document ref 18305.TP.FLARE



Pic 2 Flare kit showing flares and top cover

References

- Ref 01 Firearms Act 1968 section 57-(1)
- Ref 02 Firearms (Amendment) Act 1997 section 1-(2)
- Ref 03 R-v-Singh 1989 Crim LR724
- Ref 04 Gun Barrel Proof Act 1868 Section 108
- Ref 05 Rules and Regulations 2006 Appendix 111
- Ref 06 Home Office Guidance to Police 2014
- Ref 07 Firearms Act 1968 section 1-(4)(c)
- Ref 08 Firearms Act 1968 section 1-(4)
- Ref 09 Firearms Act 1968 section 5-(1)(b)
- Ref 10 Firearm Act 1968 section 57-(1)
- Ref 11 MoD e-mail
- Ref 12 Manufacturers e-mail
- Ref 13 Mod Pam 18 – Pyrotechnics
- Ref 14 Moore-v-Gooderham
- Ref 15 Firearms (Amendment) Act 1997 section 1-(2)
- Ref 16 Firearms Act 1968 section 1-(1)(4)(c)
- Ref 17 Firearms Act part 1
- Ref 18 Pyrotechnics (Wikipedia)
- Ref 19 Policing and Crime Act 2017