



Tonga

ARMS AND AMMUNITION ACT

Chapter 7.01

2020 Revised Edition



ARMS AND AMMUNITION ACT

Arrangement of Sections

Section

PART I - PRELIMINARY		5
1	Short title.....	5
2	Interpretation.....	5
PART II - LICENCES TO MANUFACTURE ARMS OR AMMUNITION		6
3	Prohibition on the manufacture of arms and ammunition.....	6
PART III - LICENCES TO POSSESS, USE OR CARRY ARMS OR AMMUNITION		6
4	Possession of arms and ammunition prohibited except under licence.....	6
5	Period of exemption in certain cases	7
6	Licences how obtained.....	7
7	Marking of arms.....	8
8	Lost licences	9
9	Arms or ammunition lost or destroyed	9
PART IV - LICENSED ARMS DEALERS		9
10	Dealers' licences.....	9
11	Obstructing inspection of stock-in-trade.....	10
12	Boards to be affixed at dealer's shop.....	11
13	Storage and safe custody of arms and ammunition.....	11
PART V - PURCHASE, ACQUISITION, IMPORT AND EXPORT OF ARMS AND AMMUNITION		11
14	Purchase or acquisition	11

15	Licence to import	12
16	Arms and ammunition sent by post.....	13
17	Licence to export.....	13
18	Ports and places of import and export.....	13
19	Declaration of arms and ammunition on importation.....	13
20	Penalty for unlawful importation or exportation	13
21	Arms and ammunition in transit.....	13
22	Concealing unlawful imported arms and ammunition	14
23	Prime Minister may prohibit importation or exportation	14
24	Penalty in respect of vessel used for illegal importation or exportation	14
25	Prohibition of arms in certain areas.....	15

PART VI - MISCELLANEOUS **15**

26	Certain weapons prohibited without authority of Prime Minister.....	15
27	Licence may be refused.....	16
28	Penalty for taking arms or ammunition in pawn or by auction	16
29	Search for arms or ammunition under warrant by court.....	17
30	Detention of arms or ammunition by police.....	17
31	Entry on place without warrant	17
32	Where licensee under disability	18
33	Deposit of arms and ammunition at police station	18
34	Disposal of detained arms and ammunition	18
35	Ownership	19
36	Reward to informers.....	19
37	Forfeitures	19
38	Security of arms and ammunition	19
39	General penalty	19
40	Liability of principal and agent	20
41	Search of vessels	20
42	Carrying arms or ammunition with intent to commit offence etc	21
43	Persons arrested to be taken to police station.....	21
44	Carrying arms in a public place.....	21
45	Trespassing with arms in building	22
46	Power to stop and search for arms and ammunition in the street.....	22
47	Presumption.....	22
48	Regulations.....	22
49	Power to exempt.....	23
50	Provisions of this Act to be additional to other Acts.....	23

ENDNOTES **24**



ARMS AND AMMUNITION ACT

AN ACT TO REPEAL THE ARMS AND AMMUNITION ACT AND TO MAKE BETTER PROVISIONS FOR CONTROLLING THE POSSESSION, MANUFACTURE, SALE, REPAIR, STORAGE, IMPORT AND EXPORT OF ARMS AND AMMUNITION¹

Commencement [29th November, 1968]

PART I - PRELIMINARY

1 Short title

This Act may be cited as the Arms and Ammunition Act.

2 Interpretation

In this Act, unless the contrary intention appears —

“**ammunition**” means ammunition for any arm as hereinafter defined and includes bullets, cartridges, shells or anything designed or adapted for or capable for use with any arm, or designed or adapted to contain any noxious liquid, gas or other thing but does not include spears discharged from an arm solely for the purpose of killing fish;

“**arm**” means any lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged, or which can be adapted for the discharge of any such shot, bullet or other missile, and any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or other thing dangerous to persons; and includes any component

part of any such weapon, and any accessory to any such weapon designed or adapted to diminish the noise or flash caused by firing the weapon, but does not include articles designed or adapted solely to discharge spears for spearing fish;

“**licensed arms dealer**” means the holder of a valid licence to deal in arms and ammunition and to repair arms and ammunition issued under the provisions of this Act;

“**pistol**” means an arm or other weapon of any description from which any shot, bullet or other missile can be discharged and of which the length of barrel not including any revolving, detachable or magazine breach does not exceed 230 millimetres;²

“**prohibited area**” means an area in which the Cabinet has prohibited the possession, use or carrying of arms;³

“**vessel**” includes a ship, boat or aircraft and anything made or used for the conveyance of human beings or of property, by sea or by air.

PART II - LICENCES TO MANUFACTURE ARMS OR AMMUNITION

3 Prohibition on the manufacture of arms and ammunition

- (1) Any person who manufactures any arm or ammunition shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding 10 years or to a fine not exceeding \$2,000 or to both such imprisonment and fine.
- (2) In this section the word “manufacture”, in relation to arms, does not include the repair of arms, or the alteration, substitution or replacement of any component part of an arm.

PART III - LICENCES TO POSSESS, USE OR CARRY ARMS OR AMMUNITION

4 Possession of arms and ammunition prohibited except under licence

- (1) No person shall possess, use or carry any arm or ammunition except under a licence in respect of each arm and such ammunition so possessed, used or carried and in accordance with the prescribed conditions of such licence.
- (2) Any person who shall possess, use or carry any arm or ammunition without such licence shall be guilty of an offence and shall be liable on conviction in

respect of every such arm or the total amount of ammunition so possessed, used or carried —

- (a) if the offence was committed in a prohibited area, to imprisonment for a term not exceeding 10 years;
 - (b) if the offence was committed elsewhere, to imprisonment for a term not exceeding 5 years.
- (3) Any person who shall possess, use or carry any arm or ammunition otherwise than in accordance with the prescribed conditions of such licence shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding 2 years.
- (4) The following persons shall be exempt from the operation of this section to the extent specified —
- (a) any member of the police, Aviation Security Services or military forces of the Kingdom or any person employed in the Prison Department or Customs and Excise Department in respect of any arm or ammunition possessed, used or carried in the course of his lawful duties;⁴
 - (b) the crew and passengers of any vessel, other than a vessel solely engaged in carrying goods or passengers within the limits of the Kingdom, in respect of arms or ammunition which are part of the ordinary armament of such vessel or which are in or upon such vessel and required for the service thereof;
 - (c) any public officer specifically exempted in writing from the operation of this section by Cabinet in respect of the arms or ammunition specified in the exemption;
 - (d) a licensed arms dealer and his servants in respect of arms or ammunition in their possession in the ordinary course of business of such licensed arms dealer.

5 Period of exemption in certain cases

No person shall be deemed guilty of any contravention of this Act or of any Regulations thereunder by reason only of the fact that during the months of January and February in any year he has in his possession or custody any arm or ammunition in respect of which no licence is in force, if such person had such arm or ammunition in his possession or custody on the 31st day of December of the previous year under a licence issued in that behalf under this Act.

6 Licences how obtained

- (1) A licence for an arm and ammunition under this Act may be obtained by application made in writing to the Minister of Police accompanied by the prescribed fee subject to the issue thereof being expressly approved by him:

Provided that if, during the licensing period or any part of the licensing period immediately preceding that in which application is made, the applicant has held a licence for the arm and ammunition referred to in the application and such licence has expired and has not been suspended or cancelled, application for the renewal of such licence for the same arm and ammunition may be made verbally or in writing to, and such licence may, except as provided in subsection (2), be renewed by, any police officer.

- (2) No licence for an arm or ammunition therefor shall be issued or renewed except with the express approval of the Minister of Police.
- (3) No licence shall be issued in the name of any partnership, company or corporation.
- (4) On an application —
 - (a) for a licence for an arm by a person who has not previously held a licence under the provisions of subsection (1) of this section; or
 - (b) to license an arm which has not previously been licensed in the Kingdom,

no licence shall be issued in respect of such arm unless it has first been produced for inspection by the police officer to whom such application is made.

- (5) Every licence shall expire on the 31st day of December next following the date of issue or renewal.
- (6) Every officer who issues, renews or endorses as effective any licence under this Act shall enter particulars thereof in a register to be kept at every police station where such issue, renewal or endorsement takes place.
- (7) The Minister of Police may by endorsement thereon require as a condition of any licence that the photograph of the person named in such licence be kept attached thereto, and that the person named therein shall carry on his person such licence whenever carrying the arm in respect of which the same is issued.

7 Marking of arms

- (1) Whenever application is made for a licence for any arm not marked with letters or figures or in such other manner as that the same may be readily identified, the officer to whom application is made may, before issuing the licence applied for, cause such arms to be marked with some permanent mark whereby the same may be afterwards known and identified, but in such manner as far as possible not to injure or disfigure the same. Any person who wilfully obliterates, defaces, alters, counterfeits or forges any such mark, or fraudulently marks any arm with any mark resembling or intended to resemble any mark used for marking arms under this section, shall be guilty

of an offence and shall be liable to imprisonment for a term not exceeding 2 years.

- (2) Any person who wilfully obliterates, defaces, alters, counterfeits or forges a manufacturer's serial number on any arm shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding 2 years.

8 Lost licences

If a licence issued under section 4 is destroyed, defaced or lost, the person named therein may on application to any officer authorized to issue licences and on satisfying him that the application is made in good faith, obtain from him on payment of the prescribed fee a new licence in lieu of that destroyed, defaced or lost.

9 Arms or ammunition lost or destroyed

Whenever any arm or ammunition in respect whereof a licence is in force is lost or destroyed, the person named in the licence and any other person who may have been in possession of such arm or ammunition immediately before the loss or destruction thereof shall, within 14 days after becoming aware of such loss or destruction, make a report thereof to the police station nearest to the place where such persons normally reside.

PART IV - LICENSED ARMS DEALERS

10 Dealers' licences

- (1) Subject to the provisions of this section no person other than a licensed arms dealer or his servants in the ordinary course of business of such licensed arms dealer shall, by way of trade or business —
 - (a) assemble or disassemble, clean, repair, test or prove any arm or ammunition;
 - (b) sell, transfer or expose for sale any arm or ammunition for any of the aforesaid purposes;
 - (c) keep or have in his possession any arm or ammunition for any of the aforesaid purposes.
- (2) Licences to deal in and repair arms or ammunition which shall be in the prescribed form may be issued by the Minister of Police on payment of the prescribed fee and every person applying for such a licence shall furnish particulars of every place of business at which he proposes to carry on business as a licensed arms dealer.
- (3) Every such licence shall expire on the 31st day of December of the year in respect of which it is issued.

- (4) Every person so licensed shall at all times keep books containing an accurate record of all arms or ammunition imported or received by him in the course of his business and of all arms or ammunition sold by him and of the marks by which all arms so sold may be identified with the date of sale and the name and address of the purchaser, and shall on demand produce them for the inspection of any police officer at such place and time as the police officer may reasonably require.
- (5) Every such person shall also within the first 7 days of each calendar month furnish to the Minister of Police particulars in the prescribed form of his stock of all arms and ammunition imported or received by him in the course of his business and of all arms and ammunition sold by him during the past preceding calendar month.
- (6) Any person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$100 or to both such fine and imprisonment. Any person who contravenes or fails to comply with the provisions of subsection (4) of this section shall be guilty of an offence and shall be liable to a fine not exceeding \$50.
- (7) Any person to whom a licence has been issued as aforesaid shall notify to the Minister of Police any additional place of business at which he proposes to carry on business as an arms dealer which is not entered on the licence and shall furnish such particulars as may be prescribed.
- (8) The Minister of Police, if he is satisfied that any place of business notified to him by any person under either subsection (2) or subsection (7) of this section is a place at which that person cannot be permitted to carry on business as an arms dealer without danger to the public safety or to the peace, or that inadequate precautions exist at such place of business for the security of arms or ammunition, may refuse to grant an application for such place of business.
- (9) If any arms dealer has a place of business for which he has not been granted a licence and carries on business as an arms dealer at that place, he shall for each such place of business be guilty of an offence and shall be liable to imprisonment for a term not exceeding 5 years or to a fine not exceeding \$1,000 or to both such fine and imprisonment.

11 Obstructing inspection of stock-in-trade

- (1) Every licensed arms dealer shall on demand of any police officer not below the rank of sub-Inspector or any police officer in charge of a police station submit his stock-in-trade to the inspection of such officer.
- (2) Whoever intentionally conceals the stock-in-trade of any such person from such police officer or wilfully refuses to point out where the same is kept shall be guilty of an offence and shall be liable to imprisonment for a term not

exceeding 6 months or a fine not exceeding \$50 or to both such fine and imprisonment.

12 Boards to be affixed at dealer's shop

- (1) Every licensed arm dealer shall affix in a conspicuous position outside the door of his shop or place of business a board bearing the words "Licensed to Deal in Arms and Ammunition" distinctly printed in letters not less than 5 centimetres high.
- (2) Any person who fails to comply with the provisions of subsection (1) shall be guilty of an offence and shall be liable to a fine not exceeding \$10.

13 Storage and safe custody of arms and ammunition

- (1) Every licensed arms dealer shall maintain at each of his places of business where arms or ammunition are kept a suitable enclosed store for the safe custody of arms and ammunition in his possession.
- (2) Each such store as aforesaid shall be secured to the satisfaction of the Minister of Police and shall have only one means of entry thereto which shall be provided with 2 secure locks.
- (3) If any person fails to comply with any of the provisions of this section he shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$100 or to both such imprisonment and fine.

PART V - PURCHASE, ACQUISITION, IMPORT AND EXPORT OF ARMS AND AMMUNITION

14 Purchase or acquisition

- (1) The Minister of Police may issue on the prescribed form and on payment of the prescribed fee, a licence valid for one month from the date of issue authorising a person to purchase or otherwise acquire an arm or ammunition.
- (2) No person shall take delivery of any arm or ammunition, whether by way of purchase or otherwise, unless he holds a licence in respect of such arm or ammunition issued under the provisions of this Act or exempt in respect of such arm or ammunition under the provisions of section 4 of this Act.
- (3) No person shall deliver any arm or ammunition, by way of sale or otherwise, to any other person unless the person acquiring the arm or ammunition by sale or otherwise is the holder of a licence issued under the provisions of this Act

or is exempt in respect of such arm or ammunition under the provisions of section 4 of this Act.

- (4) Any person purchasing or otherwise acquiring any arm or ammunition by virtue of a licence issued under the provisions of subsection (1) of this section shall —
 - (a) endorse such licence with the date of delivery and particulars of the arm or ammunition so purchased or acquired;
 - (b) within one week but before the expiry of such licence produce the arm so purchased or acquired together with the licence at the police station at which the licence was issued so that —
 - (i) the arm may be inspected in accordance with the provisions of section 6(4); and
 - (ii) a licence may be issued under the provisions of section 6 of this Act.
- (5) Where the vendor or previous owner of any arm or ammunition which is sold or otherwise disposed of under the authority of a licence issued under the provisions of subsection (1) is a licensed arms dealer, he shall add to the record of sales kept by him under the provisions of section 10 a record of the number, date and other particulars contained in or endorsed upon such licence.
- (6) Any person who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20.

15 Licence to import

- (1) No person shall import any arm or ammunition or parts of arms and ammunition into the Kingdom from a place without the Kingdom unless he holds a licence in that behalf:

Provided that when any arm or ammunition is imported into the Kingdom without an import licence or interim licence under this section having been obtained authorising the importation thereof, such importation shall not be deemed to contravene the provisions of this section while such arm or ammunition on importation is left in the possession of the Tonga Police Force.

- (2) Such licence may be obtained on application to the Minister of Police on payment of the prescribed fee and shall be in the prescribed form.
- (3) Every holder of such licence shall endorse thereon descriptive particulars of all arms and ammunition or parts of arms and ammunition imported thereunder, and shall return such licence to the Minister of Police or to the nearest police station within 3 days from the expiration of the terms allowed thereby.

16 Arms and ammunition sent by post

Arms or ammunition sent through the post from outside the Kingdom shall not be delivered to the consignee unless or until an import licence for such arm or ammunition is produced at the post office of delivery.

17 Licence to export

- (1) No person shall export any arms or ammunition from the Kingdom to a place without the Kingdom unless he holds a licence in that behalf.
- (2) Such licence may be obtained on application to the Minister of Police on payment of the prescribed fee and shall be in the prescribed form.

18 Ports and places of import and export

The Prime Minister may from time to time by notification in the Gazette declare that arms or ammunition or particular classes of arms or ammunition shall not be imported into or exported from the Kingdom except at ports or places specified in such notification and no arms or ammunition shall be imported into or exported from the Kingdom contrary to the terms of such notification.

19 Declaration of arms and ammunition on importation

Every person entering the Kingdom who has in his possession or among his baggage any arm or ammunition and every consignee receiving any arm or ammunition imported into the Kingdom shall make a declaration thereof to a customs officer on arrival and before clearing such arms or ammunition through the customs shall produce to such customs officer a licence issued under section 15 of this Act.

20 Penalty for unlawful importation or exportation

- (1) Any person who contravenes the provisions of subsection (1) of section 15, section 17 or of section 18 of this Act shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$100 or to both such imprisonment and fine.
- (2) Any person who contravenes the provisions of subsection (3) of section 15 or of section 19 of this Act shall be guilty of an offence and shall be liable to a fine not exceeding \$100.

21 Arms and ammunition in transit

Notwithstanding any provisions of this Act, the Minister of Police may, at his discretion and with or without conditions, grant, refuse, suspend or revoke transit licences covering the importation into, removal within, transportation across, and

exportation from the Kingdom of any arm or ammunition in transit through the Kingdom to any place outside the Kingdom, and the importation, exportation, removal, transportation and possession of any such arm or ammunition under and in accordance with the permission of any such transit licence shall be lawful and shall not constitute an offence under this Act.

22 Concealing unlawful imported arms and ammunition

Whoever knowingly conceals any arm or ammunition imported without a licence shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$100 or to both such fine and imprisonment.

23 Prime Minister may prohibit importation or exportation

- (1) The Prime Minister may from time to time by notification in the Gazette or in a newspaper published regularly within the Kingdom at least once a week and circulated throughout the Kingdom prohibit for a period to be mentioned in such notification either the importation or the exportation of any arms or ammunition or parts of arms or ammunition or of particular kinds of arms or ammunition or parts of arms or ammunition without a special licence signed by himself which may be subject to such conditions as he may think fit.
- (2) Any such prohibition of exportation may either be absolute or may relate to such place or places as shall be specified in the notification, and any person who takes or sends any such article out of the Kingdom with the intention that it shall ultimately reach a particular place either directly or indirectly, shall, for the purposes of this section, be deemed to export such article to such place.
- (3) Any person who imports into or exports from the Kingdom any arms or ammunition or parts of arms or ammunition in contravention of any notification published under this section or in breach of the conditions subject to which any special licence is issued, shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$500 or to both such imprisonment and such fine.

24 Penalty in respect of vessel used for illegal importation or exportation

- (1) If any vessel is used for the importation or exportation of any arms or ammunition or parts of arms or ammunition in contravention of a notification under the provisions of section 23 or for the receipt or storage of any arm or ammunition or parts of an arm or ammunition imported in contravention of any such notification, the owner or master thereof shall be guilty of an offence and shall be liable to a fine not exceeding \$2,000 unless it is proved to the satisfaction of the Court that the owner or master was not implicated in the placing of such arm or ammunition or parts of an arm or ammunition on board

the vessel and that the offence in question was committed without his knowledge, consent or connivance, and the vessel may be detained by order of the Court until security has been given for such sum as the Court orders not exceeding \$2,000.

- (2) The finding of any arm or ammunition or part of any arm or ammunition which is subject to a prohibition under the provisions of section 23 on board any vessel shall be prima facie evidence that the vessel has been used for the importation or exportation of arms or ammunition or parts of arms or ammunition contrary to the provisions of this Act or for the receipt or storage of arms or ammunition or parts of arms or ammunition imported contrary thereto.
- (3) For the purposes of this section the expression “master” shall include every person except a marine pilot having command or charge of the vessel.

25 Prohibition of arms in certain areas

- (1) Notwithstanding any of the other provisions of this Act, Cabinet, if it deems it expedient on account of the prevalence of crimes involving the use of arms in any area in the Kingdom may by proclamation —
 - (a) prohibit in such area and after a specified date and subject to such exceptions as it may specify, the possession, use or carrying of arms and ammunition;
 - (b) order that all arms and ammunition within such area shall be delivered up on demand to any police officer before a specified date.
- (2) Any person who without reasonable cause, proof whereof shall lie upon him, refuses or neglects to comply with the provisions of such proclamation shall be guilty of an offence and shall be liable to a fine not exceeding \$100 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.
- (3) Arms and ammunition delivered up or seized in consequence of a proclamation under this section may be detained as long as such proclamation is in force and for such reasonable period thereafter as may be necessary to enable the owners to collect or re-license them.

PART VI - MISCELLANEOUS

26 Certain weapons prohibited without authority of Prime Minister

- (1) No person without the authority of the Prime Minister shall sell, purchase or have in his possession any arm which is so designed or adapted that if pressure is applied to the trigger, missiles continue to be discharged until

pressure is removed from the trigger or the magazine containing the missiles is empty.

- (2) If any person contravenes the provisions of subsection (1) he shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding 2 years.
- (3) Any authority given to any person under this section shall be given in writing and shall be subject to such conditions as may be specified therein, and if that person fails to comply with any such condition he shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$40 or to both such imprisonment and fine.
- (4) The conditions specified in an authority as aforesaid shall include conditions as the Prime Minister having regard to the circumstances of each particular case thinks fit to impose for the purpose of securing that the arm to which the authority relates will not endanger the public safety or the peace.
- (5) The Prime Minister may at any time if he thinks fit revoke any authority given by him to any person as aforesaid by notice in writing requiring that person to deliver up the authority to such person as may be specified in the notice within 21 days from the date of the notice, and if that person fails to comply with that requirement he shall be guilty of an offence and shall be liable to a fine not exceeding \$40.
- (6) The Minister of Police shall not refuse to grant or renew, and shall not revoke, a licence in respect of an arm if the applicant is for the time being authorised by the Prime Minister to have possession of that arm.

27 Licence may be refused

- (1) Subject to the provisions of section 26, the Minister of Police may refuse any applicant for issue or renewal of any licence without assigning any reason for such refusal, and may for reasons of public safety to be duly recorded by him, or when the licensee has been convicted of an offence under this Act, or on breach of a condition of a licence, or on other prescribed grounds, cancel or suspend the licence.
- (2) No licence shall be issued or renewed to any person under the age of 21 years.

28 Penalty for taking arms or ammunition in pawn or by auction

- (1) No person shall take any arm or ammunition in pawn from any other person or sell any arm or ammunition by auction.
- (2) If any person contravenes the provisions of this section he shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$100, or to both such imprisonment and fine.

29 Search for arms or ammunition under warrant by court

- (1) Whenever a Magistrate has reason to believe that any person residing within the limits of his jurisdiction —
 - (a) has in his possession any arm or ammunition without a licence or in contravention of the conditions upon which any licence is issued or for any unlawful purpose; or
 - (b) has in his possession any arm or ammunition whereof he cannot be left in possession without danger to the public peace,such Magistrate may by warrant directed to any police officer authorize such police officer by day or by night —
 - (i) to enter and search the house or premises wherein the Magistrate has reason to believe that such arm or ammunition is to be found;
 - (ii) to seize and take before a court such arm or ammunition; and
 - (iii) to arrest any person found in such house or on such premises whom such police officer has reason to suspect to have committed any offence punishable under this Act.
- (2) In the execution of such warrant any person to whom such warrant is directed may employ such assistants as may be necessary.
- (3) Whoever, upon a search being made under this section, having in his possession or custody any arm or ammunition or knowing where any arm or ammunition is concealed, refuses to produce or point out the same to the person making the search, or intentionally conceals the same, shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$100 or to both such imprisonment and fine.

30 Detention of arms or ammunition by police

Any arm or ammunition produced to a police officer in accordance with the provisions of section 6(4) or section 11(1) of this Act or under any condition in a licence, may be detained by the police in any case in which the Minister of Police may so direct for reasons of public safety or for other good cause to be duly recorded by him:

Provided that no arm or ammunition shall be detained under this section contrary to the orders of the Prime Minister.

31 Entry on place without warrant

Any police officer may without a warrant enter and remain on any land or premises other than a dwelling house for such time as may be reasonably necessary to enable him to ascertain whether a person carrying or using or in possession of any arm or ammunition on such land or premises has a licence in that behalf.

32 Where licensee under disability

If a person licensed to deal in arms or ammunition or to import arms or ammunition dies or becomes insolvent or bankrupt or mentally disordered or otherwise under disability, the person carrying on the business of such licensee shall not be liable to any penalty or forfeiture for acting under the licence during such reasonable time as may be necessary to allow him to make application for a new licence, and such person shall be deemed to be the holder of the said licence for all purposes under this Act and to be liable in the same way as if he were the original holder thereof until a new licence is granted or refused.

33 Deposit of arms and ammunition at police station

- (1) Any person whose possession of any arms or ammunition shall have become unlawful in consequence of the expiry, suspension or cancellation of a licence shall forthwith deposit such arms and ammunition at a police station.
- (2) If the owner of any arm or ammunition, the possession of which has become unlawful in consequence of the expiry, cancellation or suspension of a licence, does not, within 6 months from the date of expiry, cancellation or suspension, as the case may be, produce a licence authorizing him to possess the same, such arms or ammunition may be sold, in which event the owner shall be entitled to receive the proceeds of sale less expenses, or otherwise disposed of or deployed.⁵
- (3) Every person licensed to possess arms or ammunition under this Act shall, upon leaving the Kingdom, unless he exports such arms or ammunition on so leaving, transfer the same to some person authorised under section 14 to take delivery thereof or deposit them for safe keeping at a police station.
- (4) It shall be a defence for any person charged with unlawfully possessing, using or carrying an arm or ammunition to prove that he carried or possessed such arm or ammunition with the intention of depositing it or producing it for inspection at a police station, and that he acted reasonably and without unreasonable delay in all the circumstances of the case, and that either —
 - (a) a licence to possess, use or carry such arm or ammunition or to import such arm or ammunition was in force within 7 days before the date of the alleged offence; or
 - (b) that, if such licence was not in force, it was not through his default.

34 Disposal of detained arms and ammunition

Arms and ammunition detained by the police under the provisions of sections 25 and 30 of this Act, shall at the expiry of the period of detention, unless previously brought before any court, be returned to the persons lawfully authorised to receive the same.

If there is no such person, such arms and ammunition shall be disposed of in the prescribed manner.

35 Ownership

The occupier of any house or premises in which any arm or ammunition is found shall be deemed until the contrary is proved to be the possessor of such arm or ammunition for the purposes of this Act.

36 Reward to informers

Any court before whom a conviction may be had under this Act may direct that any sum not exceeding one-half of any fine recovered upon such conviction shall be paid to any person upon whose information or evidence such conviction was obtained.

37 Forfeitures

All arms and ammunition with regard to which there shall have been any offence against the provisions of this Act or any Regulations made thereunder, or any breach of any condition subject to which any licence shall have been granted, may be seized by any police officer or officer of customs and, together with the receptacles containing the same, shall be liable for forfeiture by order of the Court.

38 Security of arms and ammunition

- (1) Every person having in his possession any arm or ammunition shall keep the same at all times securely and in safe custody and in a serviceable and safe condition, and shall take all reasonable precautions to ensure that such arm or ammunition is not lost or stolen and is not at any time available to any person not lawfully entitled to possess the same.
- (2) If any person fails to comply with any of the provisions of this section he shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$200 or to both such imprisonment and fine.

39 General penalty

Any person who is guilty of any offence against the provisions of this Act or any Regulations made thereunder for which no penalty is otherwise expressly provided shall be liable to a fine not exceeding \$50.

40 Liability of principal and agent

- (1) Any person licensed under this Act who would be liable under the provisions of this Act or any Regulations made thereunder to any punishment, penalty or forfeiture for any act, omission, neglect or default, shall be liable to the same punishment, penalty or forfeiture for every such act, omission, neglect or default of any agent or servant employed by him in the course of his business as such licensed person if such act, omission, neglect or default be committed by such agent or servant in the course of his employment by such licensed person.
- (2) Any agent or servant employed by a person licensed under this Act in the course of his business as such licensed person shall be liable to every punishment, penalty or forfeiture prescribed by this Act, or by any Regulations made thereunder for such acts, omissions, neglects or defaults as fully and effectually as if such agents or servant had been the person licensed.

41 Search of vessels

- (1) If —
 - (a) any vessel in any port is suspected of having on board any article the importation or exportation of which into or from the Kingdom is absolutely prohibited by a notification under section 23 of this Act and which is not exempted by this Act or by any special licence thereunder; or
 - (b) any vessel about to leave any port bound for any particular place is suspected of having on board any article the exportation of which from the Kingdom to such place is so prohibited and which is not exempted as aforesaid,

a Magistrate may issue a search warrant directed to any customs officer or police officer:

Provided that if any customs officer or police officer considers the exigencies of the case so require, he may without warrant enter any vessel and search therein and seize any arm or ammunition which may otherwise by warrant under this section be seized and arrest any person reasonably suspected of being guilty of an offence against this Act.

- (2) In the execution of such warrant any person to whom such warrant is directed may —
 - (a) board any vessel in such warrant named or described either with or without assistants;
 - (b) forcibly enter every part of such vessel; and
 - (c) arrest any person reasonably suspected of being guilty of an offence against this Act.
- (3) If upon any search made under this section —

- (a) any article the importation or exportation of which is absolutely prohibited by any notification under section 24 and which is not exempted by this Act or by any special licence thereunder is found on board any vessel in any port; or
- (b) any article the exportation of which to any particular place is so prohibited and which is not exempted as aforesaid is found on board any vessel about to leave any port for such place,

it shall be presumed unless and until the contrary be proved that there was an attempt to import or export such article as the case may be contrary to the provisions of this Act, and such vessel may be detained for the purpose of removing any such article therefrom and the same may be removed therefrom.

42 Carrying arms or ammunition with intent to commit offence etc

- (1) Any person who has with him an arm while committing or attempting to commit an offence, or with intent to commit an offence or to resist arrest or to prevent the arrest of another, shall be liable to imprisonment for a term not exceeding 10 years.
- (2) In proceedings for an offence under the provisions of this section, proof that the accused was carrying an arm and intended to commit an offence or to resist or prevent arrest shall be evidence that he intended to carry the arm while doing so.

43 Persons arrested to be taken to police station

Every person arrested by virtue of any power given by this Act shall, together with any article as to which any offence may have been committed or attempted to be committed, be taken to a police station and conveyed as soon as conveniently possible before a court to be dealt with according to law.

44 Carrying arms in a public place

- (1) Any person who, without lawful authority or reasonable excuse, the proof whereof shall lie upon him, has with him in a public place any loaded shot gun or loaded air weapon or any other arm (whether loaded or not) together with ammunition suitable for use in that arm shall be liable on conviction to imprisonment for a term not exceeding 5 years.
- (2) For the purposes of this section, a shot gun or an air weapon shall be deemed to be loaded if there is ammunition in the chamber or barrel or in any magazine or other device which is in such position that the ammunition can be fed into the chamber or barrel by the manual or automatic operation of some part of the gun or weapon.

45 Trespassing with arms in building

Any person who, while he has an arm with him, enters or is in any building or any verandah or passage attached thereto, or any yard, garden or other land adjacent to or within the curtilage of such building as a trespasser and without lawful excuse the proof whereof shall be on him, shall be liable on conviction to imprisonment for a term not exceeding 5 years.

46 Power to stop and search for arms and ammunition in the street

It shall be lawful for any police officer to stop and to search for arms or ammunition any person whom he may find in any street or other public place at any hour of the day or night who acts in a suspicious manner or whom he may reasonably suspect of having any arms or ammunition in his possession.

47 Presumption

Every person who is proved to have had in his possession or under his control anything whatever containing any arm or ammunition shall, until the contrary is proved, be deemed to have been in possession of such arm or ammunition.

48 Regulations

The Cabinet may from time to time make Regulations for any of the following purposes, that is to say —

- (a) to prescribe the form of all licences and other documents required under this Act;
- (b) to provide for the marking of arms for the possession of which a licence is issued;
- (c) to regulate the manner in which applications for licences shall be made;
- (d) to regulate the conditions subject to which licences shall be granted, and the issue of licences generally and the grounds on which they may be suspended or cancelled;
- (e) to provide for the furnishing of information in respect of arms and ammunition by persons in possession thereof;
- (f) to prescribe the fees to be paid for anything done, or any licence or document issued or granted under this Act and to direct by whom and in what manner such fees are to be collected and accounted for;
- (g) to regulate the disposition, destruction or sale of articles forfeited, detained or deposited under the provisions of this Act;
- (h) generally to give effect to the provisions of this Act, and may restrict the operation of any such Regulations to particular areas.⁶

49 Power to exempt

The Prime Minister may from time to time by notification in the Gazette or in any newspaper published regularly within the Kingdom at least once a week and circulated throughout the Kingdom exempt any arms or ammunition or classes of arms or ammunition within the Kingdom or within any part of the Kingdom from the operation of all or any of the provisions of this Act.

50 Provisions of this Act to be additional to other Acts

The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force in the Kingdom relating to the manufacture, sale, transfer, purchase, acquisition, possession, use, storage, carriage, transportation, importation or exportation of firearms, ammunition or explosives.

ENDNOTES

¹ 1988 Revised Edition Cap. 39 - Acts 10 of 1968, 8 of 1981, 46 of 1988

Amended by Act 19 of 2003, commencement 11 September 2003

² Amended by Act 8 of 1981

³ Amended by Act 42 of 2010

⁴ Amended by Act 19 of 2003

⁵ Amended by Act 46 of 1988

⁶ Amended by Act 42 of 2010