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FIREARMS ACT

CHAPTER 114

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CHAPTER 114

FIREARMS ACT

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CHAPTER 114
FIREARMS ACT

[Date of assent: 11th November, 1953.]

[Date of commencement: 1st January, 1954.]

An Act of Parliament for regulating, licensing and controlling the manufacture, importation, exportation, transportation, sale, repair, storage, possession and use of firearms, ammunition, airguns and destructive devices and for connected purposes

[Act No. 40 of 1953, G.N. 1566/1955, G.N. 1602/1955, Act No. 4 of 1960, L.N. 172/1960, L.N. 173/1960, Act No. 15 of 1961, Act No. 36 of 1962, Act No. 7 of 1963, L.N. 400/1963, Act No. 19 of 1964, L.N. 2/1964, L.N. 124/1964, L.N. 374/1964, Act No. 21 of 1966, L.N. 179/1971, Act No. 13 of 1972, Act No. 10 of 1981, Act No. 8 of 1988, Act No. 16 of 1989, Act No. 11 of 1993, Act No. 2 of 2002, Act No. 6 of 2010, Act No. 19 of 2014, Act No. 25 of 2015.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Firearms Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“**acquire**” means hire, accept as a gift or borrow;

“**ammunition**” means any cartridge, whether a blank, tracer, explosive, incendiary, gas-diffusing, signalling or any other cartridge of any other kind capable of being discharged from or used with a firearm and includes—

- (a) any grenade, bomb or other missile whether explosive or not and whether or not capable of or intended for use with a firearm;
- (b) any mine whether for use on land or at sea, depth-charge or other explosive charge;
- (c) any other container or thing designed or adapted for use in or as weapon for the discharge of any noxious liquid, gas or other substance;
- (d) any projectile, powder or other charge, primer, fuse or bursting charge forming part of any cartridge or any component part thereof; and
- (e) any ammunition or pellets for use in an airgun, air rifle or air pistol;

“**airgun**”, “**air rifle**” and “**air pistol**” mean, respectively, a gun, rifle or pistol which discharges missiles by the pressure of air or other gas or by mechanical means which do not use the products of combustion or explosives;

“**approved carrier**” means a carrier approved by the Commissioner of Police;

“**approved servant**” means an employee approved by a licensing officer;

“**area**” means a district or part of a district for which a licensing officer is appointed under section 3;

“**arms of war**” means artillery of all kinds, apparatus for the discharge of all kinds of projectiles, explosive or gas diffusing, flame-throwers, bombs, grenades, machine-guns and rifled small-bore breech-loading weapons, but

does not include sporting rifles or personal or other weapons or apparatus not intended for war-like purposes;

“**Board**” means the Firearms Licensing Board established under section 3;

“**cadet unit**” means a cadet unit established under the provisions of the Kenya Regiment (Territorial Force) Act (Cap. 200);

“**cartridge**” means any case, capsule, shell, pellet or bag of metal, pasteboard or other material, holding a complete charge for a firearm and including in the case of any firearm fired from the shoulder or of any pistol or revolver the projectile discharged therefrom;

“**customs control**” means the control of the Customs and Excise Department;

“**customs officer**” means an officer of the Customs and Excise Department;

“**firearm**” means a 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 shot, bullet or other missile and includes—

- (a) a weapon of any description designed or intended to discharge—
 - (i) any noxious liquid, noxious gas or other noxious substance; or
 - (ii) an electrical charge which when it strikes any person or animal is of sufficient strength to stun and temporarily disable the person or animal struck (such weapon being commonly known as a “stun gun” or “electronic paralysers”);
- (b) any airgun, air rifle, air pistol, revolver, crossbow, laser gun or any other similar weapon;
- (c) the barrel, bolt, chamber, silencer, muffler, flash-guard or any other accessory designed or adapted to diminish the noise or flash caused by firing a weapon and also other essential component part of any weapon; and
- (d) any weapon or other device or apparatus which may be specified by the Minister by order published in the *Gazette* to be a firearm for the purposes of this Act;
- (e) gunscope, gunsight, mufflers, bulletproof gear, night vision devices and other similar accessories.

“**firearm certificate**” means a firearm certificate granted under section 5;

“**firearms dealer**” means a person who, by way of trade or business, sells, transfers, repairs, tests or proves firearms or ammunition;

“**Gazette**” *deleted by L.N. 374/1964, s. 2;*

“**immigration officer**” has the same meaning as in the Immigration Act (Cap. 172);

“**lethal weapon**” means a weapon capable of causing death, injury, maiming or any other bodily harm whether or not the weapon is barrelled from which any shot, bolt, bullet, ray, beam, warhead, grenade, gas, liquid or other noxious substance or any other missile can be discharged and includes any prohibited weapon whether or not the same is a lethal weapon;

“licensing officer” means the chief licensing officer, and every licensing officer, appointed under section 3;

“munitions of war” means ammunition for use with arms of war;

“possession”

- (a) includes not only having in one’s own personal possession, but also knowingly having anything in the actual possession or custody of any other person, or having anything in any place (whether belonging to or occupied by oneself or not) for the use of benefit of oneself or of any other person and the expressions “be in possession” or “have in possession” shall be construed accordingly; and
- (b) if there are two or more persons and any one or more of them with the knowledge and consent of the rest has or have anything in his or their custody or possession, it shall be deemed and taken to be in the custody and possession of each and all of them”.

“prohibited weapon” means—

- (a) a firearm which is so designed or adapted that—
 - (i) when pressure is applied to the trigger missiles continue to be discharged until such pressure is removed or the magazine or belt containing the missiles is empty; or
 - (ii) for each pressure of the trigger more than one discharge of a missile can take place,

unless such firearm has been modified to the satisfaction of the chief licensing officer so as to ensure that for each pressure of the trigger the discharge of only one missile can take place;

- (b) any automatic or semi-automatic self-loading military assault rifle of 7.62 mm or 5.56 mm calibre or of any other calibre from time to time specified by the Minister by notice in the *Gazette*;
- (c) a firearm fitted with or including any device, accessory or attachment which reduces or is designed or adapted to reduce the noise or flash caused by discharging such firearm and includes any such separate device, accessory or attachment;
- (d) any weapon which can be or is designed or adapted to discharge any noxious liquid, gas or other substance unless such weapon, noxious liquid, gas or other substance are of classes or types authorized by the Minister by notice in the *Gazette*; and
- (e) any firearm or ammunition prescribed or any class or type of firearm or ammunition or any such device, accessory or attachment as is referred to in paragraph (c) prescribed by the Minister by notice in the *Gazette*;

“slaughtering instrument” means a firearm which is specially designed or adapted for the instantaneous slaughter of animals or for the instantaneous stunning of animals with a view to slaughtering them;

“transfer” includes let on hire, give, lend and part with possession.

[Act No. 4 of 1960, s. 2, L.N. 374/1964, Sch., Act No. 8 of 1988, s. 3, Act No. 19 of 2014, s. 34, Act No 25 of 2015, Sch.]

3. Establishment of the Firearms Licencing Board

(1) There is hereby established the Firearms Licensing Board.

(2) The Board shall be appointed by the Cabinet Secretary and shall consist of a Chairman and—

- (a) two representatives from the National Police Service one of whom shall be from the Directorate of Criminal Investigation;
- (b) one representative from the Office of the Attorney-General;
- (c) one representative from a private members group of lawfully registered gun owners;
- (d) one representative from the Kenya Wildlife Service;
- (e) one representative from the National Intelligence Service; and
- (f) one representative from the National Focal Point.

(3) There shall be a Secretariat of the Board which shall consist of such officers as may be necessary to discharge its duties under this Act.

(4) The persons serving as licensing officers immediately before the commencement of this section shall be deemed to be officers of the Secretariat referred to in subsection (3).

(5) The functions of the Board shall be to—

- (a) certify suitability of applicants and periodically assess proficiency of firearms holders;
- (b) issue, cancel, terminate or vary any licence or permit issued under this Act;
- (c) register civilians firearm holders, dealers and manufacturers of firearms under this Act;
- (d) register, supervise, and control all shooting ranges that are registered under this Act;
- (e) establish, maintain and monitor a centralized record management system under this Act;
- (f) perform such other functions as the Cabinet Secretary may prescribe from time to time.

[Act No. 4 of 1960, s. 3, Act No. 19 of 2014, s. 35.]

**PART II – REGULATIONS OF PURCHASE, POSSESSION,
MANUFACTURER AND SALE OF FIREARMS AND AMMUNITION**

4. Penalty for purchasing, etc., firearms or ammunition without firearm certificate

(1) Subject to this Act, no person shall purchase, acquire or have in his possession any firearm or ammunition unless he holds a firearm certificate in force at the time.

(1A) No person shall manufacture, assemble, purchase, acquire or have in his possession an armoured vehicle unless he holds a certificate of approval issued under this Act.

(2) If any person—

- (a) purchases, acquires or has in his possession any firearm or ammunition without holding a firearm certificate in force at the time,

or otherwise than as authorized by a certificate, or, in the case of ammunition, in quantities in excess of those so authorized; or

- (b) fails to comply with any condition subject to which a firearm certificate is held by him; or
- (c) manufactures, assembles, purchases, acquires or has in his possession an armoured vehicle without approval under subsection (1A),

he shall, subject to this Act, be guilty of an offence.

(3) Any person who is convicted of an offence under subsection (2) shall—

- (a) if the firearm concerned is a prohibited weapon of a type specified in paragraph (b) of the definition of that term contained in section 2 or the ammunition is ammunition for use in any such firearm be liable to imprisonment for a term of not less than seven years and not more than fifteen years; or

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- (b) if the firearm is any other type or the ammunition for any weapon not being a prohibited weapon be liable to imprisonment for a term of not less than five, but not exceeding ten years:

Provided that, when the offence for which the person is convicted (not being an offence in relation to a prohibited weapon or to any ammunition therefor) is failure by neglect to renew a firearms certificate such person shall be liable to pay a fine at the rate of five hundred shillings per day for every day or part hereof during which his default continues but so that no person shall be liable to pay a fine greater than the maximum provided by this subsection and if such fine is not paid then to imprisonment for a term not exceeding two years.

[G.N. 1566/1955, L.N. 172/1960, Act No. 13 of 1972, Sch., Act No. 10 of 1981, Sch., Act No. 8 of 1988, s. 4, Act No. 11 of 1993, Sch., Act No. 2 of 2002, Sch., Act No. 19 of 2014, s. 36.]

4A. Offences relating to specified firearms

(1) Notwithstanding section 4, any person who—

- (a) is found in possession of any of the specified firearms without a licence or permit or other lawful justification; or
- (b) being licensed to possess, hold, trade in or otherwise have custody of any of the specified firearms, ammunition or parts of such firearm or ammunition hires or otherwise unlawfully permits another person to take possession of or use that firearm or ammunition to advance the course of organized criminal activity,

commits an offence under this Act and is liable to imprisonment for life.

(2) For the purposes of this section, “**specified firearm**” means any of the following firearms—

- (a) AK 47;
- (b) G3;
- (c) MP 5; and
- (d) such other similar firearms as may be specified by the Minister by order published in the *Gazette*.

(3) A court before which an offence under subsection (1) is found to have been committed may order the forfeiture to the State of any firearms, ammunition or other parts produced as exhibits in the trial.

[Act No. 6 of 2010, s. 26.]

5. Grant, etc., of firearm certificates

(1) An application for the grant of a firearm certificate shall be made in the prescribed form to the licensing officer, and shall state such particulars as may be required by that form.

(2) The firearm certificate shall be granted by the licensing officer if he is satisfied that the applicant has a good reason for purchasing, acquiring or having in his possession the firearm or ammunition in respect of which the application is made, and can be permitted to have in his possession that firearm or ammunition without danger to the public safety or to the peace:

Provided that a firearm certificate shall not be granted to a person whom the licensing officer has reason to believe to be prohibited by or under this Act from possessing a firearm, or to be of intemperate habits or unsound mind, or to be for any reason unfitted to be entrusted with such a firearm, or who has not satisfied a licensing officer that he will at all times keep the firearm securely and in safe custody and in a safe condition and take all reasonable precautions to ensure that the firearm is not lost or stolen and is not at any time available to any person not lawfully entitled to possess the same.

(3) A firearm certificate granted under this section shall be in the prescribed form, and shall specify the conditions (if any) subject to which it is held, the nature and number of firearms to which it relates and, as respects ammunition, the quantities authorized to be purchased and to be held at any one time thereunder.

(4) A firearm certificate shall, unless previously revoked or cancelled, continue in force for one year from the date when it was granted or last renewed, but shall be renewable for a further period of one year by a licensing officer, and so on from time to time, and the foregoing provisions of this section shall apply to the renewal of a firearm certificate as they apply to the grant of a firearm certificate.

(5) A licensing officer may at any time by notice in writing vary the conditions subject to which a firearm certificate is held, except such of them as may be prescribed, and may by the notice require the holder to deliver up the firearm certificate to him within fourteen days from the date of the notice for the purpose of amending the conditions specified therein.

(6) A firearm certificate may also, on the application of the holder thereof, be varied from time to time by a licensing officer.

(7) A firearm certificate may be revoked by a licensing officer if—

- (a) the licensing officer is satisfied that the holder is prohibited by or under this Act from possessing a firearm to which the firearm certificate relates, or is of intemperate habits or unsound mind, or is otherwise unfit to be entrusted with a firearm; or
- (b) the holder fails to comply with a notice under subsection (5) requiring him to deliver up the firearm certificate.

(8) In any case where a firearm certificate is revoked by a licensing officer, he shall by notice in writing require the holder to surrender the firearm certificate, and if the holder fails to do so within fourteen days from the date of the notice he shall be guilty of an offence and liable to a fine not exceeding one thousand shillings:

Provided that, where an appeal is brought against the revocation, this subsection shall not apply to that revocation unless the appeal is abandoned or dismissed, and shall in that case have effect as if for the reference to the date of the notice there were substituted a reference to the date on which the appeal was abandoned or dismissed.

(9) If any person makes a statement which he knows to be false for the purpose of procuring, whether for himself or any other person, the grant of a firearm certificate under this section, or the variation or renewal of a firearm certificate he shall be guilty of an offence and liable to imprisonment for a term not exceeding two months or to a fine not exceeding two thousand shillings or to both.

[Act No. 4 of 1960, s. 4.]

6. Fees in respect of firearm certificates

(1) Subject to this section, there shall be payable on the grant of a firearm certificate, and on the renewal of a firearm certificate, and on any variation of a firearm certificate which increases the number of firearms to which the firearm certificate relates, and on the replacement of a firearm certificate which has been lost or destroyed, such fees as may be prescribed:

Provided that, where a firearm certificate is both varied and renewed or replaced at the same time, no fee shall be payable on the variation.

(2) No fee shall be payable on the grant to any responsible officer of a rifle club, miniature rifle club or cadet unit approved for the purpose by the Minister, of a firearm certificate in respect of firearms or ammunition to be used solely for target practice or drill by the members of the club or unit, or on the variation or renewal of a firearm certificate so granted.

(3) No fee shall be payable on the grant, variation or renewal of a firearm certificate if the licensing officer is satisfied that the firearm certificate relates solely to, and in the case of a variation, will continue when varied to relate solely to—

- (a) a firearm or ammunition which the applicant requires as part of the equipment of a ship; or
- (b) a signalling apparatus, or ammunition therefor which the applicant requires as part of the equipment of an aircraft or aerodrome; or
- (c) a slaughtering instrument or ammunition therefor, which the applicant requires for the purpose of the slaughter of animals other than for commercial purposes.

[Act No. 2 of 2002, Sch.]

7. Exemptions from holding a firearm certificate

(1) The following provisions of this section shall have effect notwithstanding anything in section 4 or section 6.

(2) A police officer or other public officer may—

- (a) without a firearm certificate or temporary permit have in his possession and use a Government firearm or Government ammunition, if the firearm or ammunition is issued for the purposes of his duty as such officer except that immediately upon such officer ceasing to be a member of the police force or otherwise in the public service he shall forthwith deliver up any such firearm or ammunition as aforesaid to the proper officer of the Government;
- (b) with a firearm certificate but without payment of any fee in respect thereof have in his possession and use a firearm or ammunition lawfully purchased or otherwise acquired by him which is used by him for the purposes of his duty as such officer except that immediately upon such officer ceasing to be a member of the police force or otherwise in the public service the exemption from payment of any fee shall cease and the prescribed fee shall forthwith become payable in relation to such firearm or ammunition.

(3) A person carrying on the business of a firearms dealer and registered as such under this Act, or an approved servant of that person, may, without holding a firearm certificate, purchase, acquire or have in his possession a firearm or ammunition in the ordinary course of that business.

(4) A person carrying on the business of an auctioneer, an approved carrier or a bank licensed under section 4 of the Banking Act (Cap. 488), or an approved servant of that person, may, without holding a firearm certificate, have in his possession a firearm or ammunition in the ordinary course of that business.

(5) A person may, without holding a firearm certificate, have in his possession a slaughtering instrument and ammunition therefor in any abattoir the operation of which is licensed or permitted by or under section 7 of the Kenya Meat Commission Act (Cap. 363), if employed in that abattoir.

(6) The proprietor of an abattoir such as is referred to in subsection (5), or a person appointed by him to take charge of slaughtering instruments and ammunition therefor for the purpose of storing them in safe custody at that abattoir, may, without holding a firearm certificate, have in his possession a slaughtering instrument or ammunition therefor for that purpose.

(7) Any person may, without holding a firearm certificate—

- (a) have in his possession a firearm or ammunition on board a ship, or a signalling apparatus or ammunition therefor on board an aircraft or at an aerodrome, as part of the equipment of the ship, aircraft or aerodrome; and
- (b) remove a signalling apparatus or ammunition therefor, being part of the equipment of an aircraft, from one aircraft to another at an aerodrome, or from or to an aircraft at an aerodrome to or from a place appointed for the storage thereof in safe custody at that aerodrome, and keep any such apparatus or ammunition at such a place; and
- (c) if he has obtained from a police officer of or above the rank of Assistant Superintendent or from a licensing officer a permit for the purpose in the prescribed form, remove a firearm from or to a ship, or a signalling apparatus from or to an aircraft or aerodrome, to or from such place and for such purpose as may be specified in the permit.

(8) A person carrying a firearm or ammunition belonging to another person holding a firearm certificate relating thereto may, without himself holding a firearm certificate, have in his possession that firearm or ammunition under instructions from and for the use of that other person for sporting purposes only.

(9) A member of a rifle club, miniature rifle club or cadet unit approved by the Minister under and for the purposes of subsection (2) of section 6, may, without holding a firearm certificate, have in his possession a firearm and ammunition therefor when engaged as a member in, or in connection with, drill or target practice.

(10) Any person may, without holding a firearm certificate, use a miniature rifle not exceeding 0.22 calibre, and ammunition suitable therefor, at a miniature rifle range or shooting gallery.

(11) Any person may, without holding a firearm certificate, have a firearm in his possession at an athletic or other sporting meeting for the purpose of starting races at that meeting.

(12)

- (a) A person who has obtained from a licensing officer a permit for the purpose in the prescribed form may, without holding a firearm certificate, have in his possession a firearm and ammunition therefor in accordance with the terms of the permit; but no such permit shall be issued in respect of, or be valid for, a period exceeding three months.
- (b) A permit under this subsection shall not be granted to any person in respect of any firearm or ammunition unless the licensing officer is satisfied that that person would, on application, be granted a firearm certificate in respect of the firearm or ammunition.
- (c) A permit under this subsection may at any time be revoked by a licensing officer if the licensing officer is satisfied that the holder would not, on application, be granted a firearm certificate in respect of the firearm or ammunition.

(13)

- (a) A person who has obtained from a licensing officer a permit for the purpose in the prescribed form may, without himself holding a firearm certificate, acquire otherwise than by way of gift, and have in his possession, in accordance with the terms of the permit, a firearm or ammunition which is of a class or description specified in the permit and which belongs to another person who holds a firearm certificate relating thereto.
- (b) A permit under this subsection shall not be granted in respect of, or be valid for, a period exceeding one year, but shall be renewable by a licensing officer for a further period not exceeding one year, and so on from time to time.
- (c) A permit under this subsection shall not be granted or renewed in respect of any class or description of firearms or ammunition unless the licensing officer is satisfied that the applicant or holder, as the case may be, can be permitted to have in his possession any firearm or ammunition of such class or description without danger to the public safety or to the peace, or if the licensing officer has reason to believe that the applicant or holder is prohibited by or under this Act from possessing a firearm, or is of intemperate habits of unsound mind, or is for any reason unfitted to be entrusted with any firearm of that class or description.
- (d) A permit under this subsection may be revoked by a licensing officer, either wholly or in respect of any class or description of firearms or ammunition to which it relates, if the licensing officer is satisfied that the holder would not, by reason of the provisions of paragraph (c), be granted, as at the date of revocation, a renewal of the permit, or, as the case may be, a renewal thereof in respect of that class or description of firearms or ammunition.

(14) Where a licensing officer revokes a permit under subsection (12) or subsection (13), he shall by notice in writing require the holder of the permit to surrender it, and if the holder fails to surrender it within fourteen days from the date of the notice, he shall be guilty of an offence and liable to a fine not exceeding one thousand shillings:

Provided that, where an appeal is brought against the revocation, this subsection shall not apply to that revocation unless the appeal is abandoned or dismissed, and shall in that case have effect as if for the reference to the date of the notice there were substituted a reference to the date on which the appeal was abandoned or dismissed.

(15) If any person makes any statement which he knows to be false for the purpose of procuring, whether for himself or any other person, the grant or renewal of a permit under this section, he shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.

[Act No. 4 of 1960, ss. 5 and 21, Act No. 8 of 1988, s. 5.]

8. Power to refuse firearm certificate or permit unless firearm or ammunition produced

(1) Notwithstanding anything contained in any of the foregoing sections of this Act, a licensing officer may refuse to grant, renew or vary a firearm certificate, or to grant a permit under subsection (12) of section 7, unless and until any firearm to which the firearm certificate or permit will, if granted, renewed or varied, relate is produced to him for his inspection and for marking, if necessary, in accordance with the requirements of subsection (2) of this section.

(2) No firearm certificate, and no permit under subsection (12) of section 7, shall be granted, or, as the case may be, varied or renewed, in respect of a firearm unless the firearm bears a mark or number of identification or is first marked with such a mark or number by, or under and in accordance with the directions of, the licensing officer.

9. Prohibition of manufacture of firearms and ammunition

(1) No person shall manufacture any firearm or ammunition save on behalf of the Government and at a place established and designated for the purpose by, and in accordance with instructions to be issued by, the Minister.

(2) In this section, “**manufacture**”, in relation to firearms or ammunition, includes the filling, refilling and other processing of ammunition, but does not include the repair of firearms or ammunition, or the conversion into a firearm of anything which has the appearance of a firearm but is so constructed as to be incapable of discharging any missile through the barrel thereof, or the alteration, or substitution or replacement of any component part, of a firearm.

(3) If any person contravenes any of the provisions of subsection (1), he shall be guilty of an offence and liable to imprisonment for a term of not less than ten, but not exceeding fifteen, years.

[Act No. 4 of 1960, s. 21, Act No. 36 of 1962, Sch., Act No. 2 of 2002, Sch.]

10. Production of firearm certificate or permit

(1) Any police officer, customs officer or licensing officer may demand from any person whom he believes to be in possession of a firearm or ammunition the production of any firearm certificate or of any permit granted under subsection (12) or subsection (13) of section 7 at or before such time, at such place and to such police officer, customs officer or licensing officer as he may specify.

(2) Such demand under this section may be made orally or in writing.

(3) If any person upon whom a demand is so made fails to produce any certificate or permit granted to him, or to allow the officer to read the same, or to show that he is entitled by virtue of this Act to have the firearm or ammunition in his possession without holding a firearm certificate or permit, the officer may seize and detain the firearm or ammunition, and may require that person to declare to him immediately his name and address.

(4) If any person upon whom a demand is so made fails, without reasonable cause, to produce any certificate or permit granted to him, or to allow the officer to read the same, or refuses so to declare his name and address, or fails to give his true name and address, he shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings.

[Act No. 4 of 1960, s. 6, Act No. 2 of 2002, Sch.]

11. Production of and accounting for firearms and ammunitions

(1) Any police officer, customs officer or licensing officer may demand from any person who holds a firearm certificate or a permit under subsection (12) or subsection (13) of section 7 the production of any firearm or ammunition to which it relates at or before such time, at such place and to such police officer, customs officer or licensing officer as he may specify.

(2) Any such officer may demand from any person who has within the last preceding five years held a firearm certificate or permit the production of any firearm or ammunition to which it relates, or an account of its whereabouts, at or before such time, at such place and to such police officer, customs officer or licensing officer as he may reasonably specify.

(3) A demand under this section may be made orally or in writing.

(4) If any person fails without reasonable cause to comply with a demand under this section, he shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings.

[Act No. 4 of 1960, s. 6, Act No. 2 of 2002, Sch.]

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11A. Concealment of serial number

Any person who—

- (a) obliterates the serial number of any firearm in his possession; or
- (b) is found, without reasonable excuse, in possession of a firearm the serial number of which has been obliterated,

shall be guilty of an offence and liable to imprisonment for a term of not less than five, but not exceeding ten years.

[Act No. 2 of 2002, Sch.]

12. Penalty for dealing in firearms without being registered

(1) Subject to this section, no person shall, by way of trade or business—

- (a) sell, transfer, repair, test or prove; or
- (b) expose for sale or transfer, or have in his possession for sale, transfer, repair, test or proof,

any firearm or ammunition, unless he is registered under this Act as a firearms dealer:

Provided that an auctioneer may sell by auction, and have in his possession for sale by auction, a firearm or ammunition without being registered if he has obtained from a licensing officer a permit for that purpose in the prescribed form, and complies with the terms of the permit.

(2) If any person contravenes any of the provisions of this section, or makes any statement which he knows to be false for the purpose of procuring, whether for himself or for any other person, the grant of a permit under this section, he shall be guilty of an offence and liable to imprisonment for a term of not less than five, but not exceeding ten years.

[Act No. 4 of 1960, s. 7, Act No. 2 of 2002, Sch.]

13. Registration of firearms dealers

(1) For the purposes of this Act, the chief licensing officer shall keep in the prescribed form a register of firearms dealers in which, subject as hereinafter provided, he shall cause to be entered the name of every person who applies to be registered as a firearms dealer and furnishes the prescribed particulars:

Provided that—

- (i) the licensing officer shall not register an applicant who is prohibited from being registered by order of a court made under section 19; and
- (ii) the licensing officer may refuse to register an applicant if he is satisfied that the applicant cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace.

(2) On the registration of an applicant as a firearms dealer there shall be payable such fee as may be prescribed.

(3) If the licensing officer, after giving reasonable notice to any person whose name is on the register, is satisfied that that person—

- (a) is no longer carrying on business as a firearms dealer; or

(b) *Deleted by Act No. 4 of 1960, s. 8.*

he shall cause the name of that person to be removed from the register.

(4) The licensing officer shall also cause the name of a person to be removed from the register if that person so desires.

(5) If any person, for the purpose of procuring the registration of himself or any other person as a firearms dealer, makes any statement which he knows to be false, he shall be guilty of an offence and liable to imprisonment for a term not exceeding one year or to a fine not exceeding ten thousand shillings or to both.

[Act No. 4 of 1960, s. 8, Act No. 2 of 2002, Sch.]

14. Certificate of registration

(1) The licensing officer shall grant or cause to be granted to any person who is registered as a firearms dealer under section 13 a certificate of registration.

(2) On or before the first day of January in each year, every person for the time being registered as a firearms dealer shall—

- (a) surrender to the licensing officer his certificate of registration; and
- (b) apply in the prescribed form for a new certificate of registration; and
- (c) pay the fee prescribed,

and thereupon the licensing officer shall, subject to the provisions of subsection (3) of section 13, grant him a new certificate of registration.

(3) If any person to whom this section applies fails to comply with all or any of the requirements of subsection (2), the licensing officer shall by notice in writing require him to comply therewith, and, if he fails to do so within twenty-one days from the date of the notice, or within such further time as the licensing officer may in special circumstances allow, shall cause his name to be removed from the register.

(4) In any case where a licensing officer causes the name of a firearms dealer to be removed from the register, he shall by notice in writing require the dealer to surrender his certificate of registration, and if the dealer fails to do so within twenty-one days from the date of the notice he shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings:

Provided that—

- (i) where an appeal is brought against the removal, this subsection shall not apply to that removal unless the appeal is abandoned or dismissed, and shall in that case have effect as if for the reference to the date of the notice there were substituted a reference to the date on which the appeal was abandoned or dismissed;
- (ii) until the dealer surrenders his certificate of registration in accordance with the provisions of this subsection, or, if he fails so to surrender his certificate, until the expiration of the period of twenty-one days, the dealer shall be deemed to be registered as a firearms dealer for the purpose only of disposing of the stock in hand of his business.

[Act No. 4 of 1960, s. 9, Act No. 2 of 2002, Sch.]

15. Registrations of place of business of firearms dealers

(1) The prescribed particulars which a person applying to be registered as a firearms dealer under section 13 is required to furnish shall include particulars of every place of business at which he proposes to carry on business as a firearms dealer, and the licensing officer shall, subject as hereinafter provided, enter in the register every such place of business.

(2) Every person registered as a firearms dealer who proposes to carry on business as such at any place of business which is not entered in the register shall notify the licensing officer and furnish him with such particulars as may be prescribed, and the licensing officer shall, subject as hereinafter provided, enter that place of business in the register.

(3) A licensing officer, if he is satisfied that any place of business notified to him by any person under subsection (1) or subsection (2), or any place entered as the place of business of any person in the register of firearms dealers, is a place at which that person cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace, may refuse to enter that place of business in the register or remove it from the register, as the case may be.

(4) If—

- (a) any person, being a registered firearms dealer, has a place of business which is not entered on the register and carries on business as a firearms dealer at that place; or
- (b) any person makes any statement which he knows to be false for the purpose of procuring, whether for himself or any other person, the entry of any place of business in the register of firearms dealers,

he shall be guilty of an offence and liable to imprisonment for a term not exceeding one year or to a fine not exceeding ten thousand shillings or to both.

[Act No. 4 of 1960, s. 10, Act No. 2 of 2002, Sch.]

16. Restrictions on sale, repair, etc., of firearms and ammunition

(1) No person shall sell or transfer to any other person in Kenya, other than a registered firearms dealer, any firearm or ammunition unless that other person produces a firearm certificate authorizing him to purchase or acquire it or shows that he is by virtue of this Act entitled to purchase it, or, as the case may be, to acquire it by means of transfer, without holding a certificate:

Provided that this subsection shall not prevent a person parting with the possession of a firearm or ammunition, otherwise than in pursuance of a contract of sale or hire or by way of gift or loan, to a person who shows that he is by virtue of this Act entitled to have possession of the firearm or ammunition without holding a firearm certificate.

(2) Every person who sells, lets on hire, gives or lends a firearm or ammunition to any other person in Kenya, other than a registered firearms dealer, shall, unless that other person shows that he is by virtue of this Act entitled to purchase or, as the case may be, to hire, accept as a gift or borrow the firearm or ammunition without holding a firearm certificate, comply with any instructions contained in the certificate produced, and in the case of a firearm shall, within forty-eight hours from the transaction, send by registered post notice of the transaction to the licensing officer.

(3) No person shall undertake the repair, test or proof of a firearm or ammunition for any other person in Kenya, other than a registered firearms dealer as such, unless that other person produces or causes to be produced a firearm certificate authorizing him to have possession of the firearm or ammunition, or shows that he is by virtue of this Act entitled to have the firearm or ammunition without holding such a certificate.

(4) If any person—

- (a) contravenes any of the provisions of this section; or
- (b) with a view to purchasing or acquiring, or procuring the repair, test or proof of, a firearm or ammunition produces a false firearm certificate or a firearm certificate in which any false entry has been made, or personates a person to whom a firearm certificate has been granted, or makes any false statement,

he shall be guilty of an offence and liable to imprisonment for a term of not less than five, but not exceeding ten years.

[Act No. 4 of 1960, s. 11, Act No. 2 of 2002, Sch.]

17. Register of transactions in firearms and ammunition

(1) Every person who by way of trade or business deals in, sells or transfers firearms or ammunition shall provide and keep a register of transactions, and shall enter or cause to be entered therein such particulars as may be prescribed.

(2) Every such entry shall be made within twenty-four hours after the transaction to which it relates took place, and, in the case of a sale or transfer, every such person shall at the time of the transaction require the purchaser or transferee to furnish particulars sufficient for identification, and shall immediately enter those particulars in the register.

(3) Any person to whom this section applies shall, on demand, allow a police officer or licensing officer to enter and inspect all stock in hand, and shall on request by the police or licensing officer produce for inspection the register so required to be kept.

(4) If any person—

- (a) fails to comply with any of the provisions of this section; or
- (b) knowingly makes any false entry in a register required to be kept under this section; or
- (c) knowingly furnishes any false particular of identification of himself or any other person,

he shall be guilty of an offence and liable to imprisonment for a term not exceeding one year or to a fine not exceeding ten thousand shillings or to both.

(5) Nothing in this section shall apply to the sale of firearms or ammunition by auction in accordance with the terms of a permit issued under the proviso to subsection (1) of section 12.

[Act No. 4 of 1960, s. 12, Act No. 2 of 2002, Sch.]

18. Storage and safe custody of firearms and ammunition

(1) Every registered firearms dealer shall maintain at each of his places of business a suitable enclosed store for the safe custody of firearms and ammunition in his possession.

(2) Each store shall be, and be maintained constantly, secure to the satisfaction of the licensing officer, and shall have only one means of entry thereto, which shall be provided with two locks, of which master-keys shall be delivered to, and retained by, the licensing officer.

(3) Every person having in his possession any firearm or ammunition shall keep it at all times securely and in safe custody and in a safe condition, and shall take all reasonable precautions to ensure that the firearm or ammunition is not lost or stolen and is not at any time available to any person not lawfully entitled to possess it.

(4) Any person who fails to comply with any of the provisions of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding one year or to a fine not exceeding ten thousand shillings or to both.

(5) In this section, “**safe custody**” means in the physical custody of the licensee or in a safe approved for that purpose by the licensing officer.

[Act No. 4 of 1960, s. 13, Act No. 15 of 1961, Sch., Act No. 2 of 2002, Sch.]

19. Powers of court in case of offences by registered firearms dealers

Where a registered firearms dealer is convicted of an offence under this Act, or under any law for the time being in force in Kenya relating to customs in respect of the import or export of firearms or ammunition, the court may order—

- (a) that the name of the registered firearms dealer be removed from the register; and
- (b) that neither the dealer nor any person who acquires the business of that dealer, nor any person who took part in the management of the business and was knowingly a party to the offence, shall be registered as a firearms dealer; and
- (c) that any person who, after the date of the order knowingly employs in the management or conduct of his business the dealer convicted of the offence or any person who was knowingly a party to the offence shall not be registered as a firearms dealer or, if so registered, shall be liable to be removed from the register; and
- (d) that any stock in hand of the business shall be disposed of by sale or otherwise in accordance with such directions as may be contained in the order:

Provided that a person aggrieved by an order made under this section may appeal against the order in the same manner as against the conviction, and the Court may suspend the operation of the order pending the appeal.

20. Penalty for taking in pawn firearms or ammunition

(1) No person shall take any firearm or ammunition in pawn from any other person.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to imprisonment for a term of not less than three, but not exceeding five, years.

[Act No. 2 of 2002, Sch.]

21. Provisions as to converting imitation firearms into firearms

(1) No person other than a registered firearms dealer shall convert into a firearm anything which, though having the appearance of being a firearm, is so constructed as to be incapable of discharging any missile through the barrel thereof.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to imprisonment for a term of not less than seven, but not exceeding fifteen, years.

[Act No. 2 of 2002, Sch.]

22. Loss of firearms or ammunition to be reported

Any person having possession of a firearm or ammunition, whether or not he holds a firearm certificate therefor or is entitled to have possession thereof without holding a firearm certificate, shall, if the firearm or ammunition is lost, stolen or destroyed, report the loss, theft or destruction as soon as possible after its occurrence to the police officer in charge of the nearest police station, and if he fails to do so, shall be guilty of an offence and liable to imprisonment for a term not exceeding one year or to a fine not exceeding ten thousand shillings or to both.

[Act No. 2 of 2002, Sch.]

23. Appeals under this Part

(1) Any person aggrieved by a refusal of a licensing officer to grant him a firearm certificate under section 5 or to vary or renew a firearm certificate, or by the revocation of a firearm certificate, or by a refusal of a licensing officer to grant him a permit under subsection (12) of section 7, or by the revocation of such a permit, or by a refusal of a licensing officer to grant him a permit under subsection (13) of section 7 or to renew such a permit, or by the revocation of such a permit, or by the refusal of a licensing officer to register him as a firearms dealer, or by the removal of his name from the register of firearms dealers by a licensing officer, or by the refusal of a licensing officer to enter a place of business in the register of firearms dealers under section 15 or by the removal of any such place of business from the register, may appeal to the Minister, whose decision shall be final.

(2) An appeal under this section shall be lodged within fourteen days after the date on which the appellant first received notice, whether written or oral, of the decision by which he is aggrieved.

(3) On an appeal under this section, the Minister may either dismiss the appeal or give such directions as he may think fit to the licensing officer from whose decision the appeal has been lodged, as respects the firearm certificate, permit or register which is the subject of the appeal.

[G.N. 1602/1955, L.N. 173/1960.]

24. Application of this Part

This Part applies to all firearms and ammunition as defined in section 2 and to all other weapons which are capable of being converted into, or to have the appearance of, lethal weapons, or which can be used or adapted for the discharge of any noxious liquid, gas or other substance, or any missile, projectile

or other similar thing but does not apply to any other weapon which is not of a type declared by the Minister, by notice in the *Gazette*, to be specially or potentially dangerous.

[Act No. 4 of 1960, s. 14, Act No. 8 of 1988, s. 6.]

25. Saving for game laws

Nothing in this Part shall relieve any person using or carrying a firearm from the obligation to take out a licence to kill game under any law for the time being in force relating to such licences.

PART III – MISCELLANEOUS PROVISIONS AS TO FIREARMS AND AMMUNITION

26. Special provisions relating to certain types of weapons and ammunition

(1) It shall not be lawful for any person, other than a person in the service of the Government acting in his capacity as such and authorized in writing in that behalf by the Minister or a person of a class for the time being authorized in that behalf by the Minister by notice in the *Gazette*, shall sell, transfer, purchase, acquire or have in his possession—

- (a) any firearm which is so designed or adapted that if pressure is applied to the trigger missiles continue to be discharged until the pressure is removed or until the magazine containing the missiles is empty; or
- (aa) any prohibited weapon of a type specified in paragraph (b) of the definition of that term contained in section 2; or
- (b) any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or similar thing or of any electrical charge;
- (c) any ammunition containing, or designed or adapted to contain, any such noxious thing; or
- (d) any firearm or ammunition specified, or of a class or type specified, by the Minister by notice in the *Gazette*; or
- (e) any accessory or attachment, of a kind specified by the Minister by notice in the *Gazette*, which is designed or adapted for use with or as part of a firearm;
- (f) any arms or munitions of war.

(2) Any person who does any of the things prohibited by subsection (1) shall be guilty of an offence and—

- (a) if the firearm concerned falls within any of the categories specified in paragraphs (a), (aa) or (b) of subsection (1) be liable to imprisonment for a term of not less than seven, but not exceeding fifteen years;
- (aa) if the firearm concerned falls within the category specified in paragraph (f) of subsection (1), shall be liable to imprisonment for a term not of less than fourteen years;

- (b) if the firearm ammunition (as the case may be) falls within any of the remaining categories specified in paragraphs (c), (d) or (e) of subsection (1) be liable to imprisonment for a term of not less than seven, but not exceeding fifteen, years.

(3) An authority given under this section shall be subject to such conditions as may be specified therein, and, if any person authorized thereby fails to comply with any such condition, he shall be guilty of an offence and liable to imprisonment for a term not exceeding one year or to a fine not exceeding ten thousand shillings or to both.

(4) The Minister may at any time revoke any individual authority given by him to any person under this section, by notice in writing requiring that person to deliver up the authority to such person as may be specified in the notice within fourteen 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 liable to imprisonment for a term not exceeding one year or to a fine not exceeding ten thousand shillings, or to both.

(5) An authority given by the Minister under this section to any class of persons may at any time be revoked or varied by the Minister by notice in the *Gazette*.

(6) The foregoing provisions of this section shall be in addition to and not in derogation of any other provisions of this Act or any other Act relating to the sale, transfer, purchase, acquisition or possession of firearms or ammunition, but a licensing officer—

- (a) shall not refuse to grant or renew, and shall not revoke, a firearm certificate in respect of a firearm, weapon or ammunition referred to in subsection (1) if the applicant is for the time being authorized to have possession of that firearm, weapon or ammunition; and
- (b) shall not refuse to enter in the register of firearms dealers the name of a person for the time being so authorised to sell or transfer a firearm, weapon or ammunition referred to in subsection (1), or remove the name of such a person from the register, on the ground that he cannot be permitted to carry on, or to continue to carry on, business as a firearms dealer without danger to the public safety or to the peace;

and, where any authority to purchase, acquire or have possession of a firearm, weapon or ammunition is revoked under this section, the firearm certificate relating to that firearm, weapon or ammunition shall be revoked or varied accordingly by the licensing officer by whom it was granted.

[Act No. 4 of 1960, ss. 15 and 21, Act No. 21 of 1966, First Sch.,
Act No. 8 of 1988, s. 7, Act No. 2 of 2002, Sch.]

26A. Unlawful use, etc., of firearms by public officers

(1) Any public officer who—

- (a) uses any Government firearm which is in his possession or under his control for any unlawful purposes; or
- (b) disposes of any Government firearm or ammunition to any person who is not under his immediate command without lawful authority; or

(c) receives otherwise than in the course of and for his lawful duty from any person any ammunition; or

(d) fails to account fully for all ammunition, issued to and used by him,

shall be guilty of an offence, and liable to imprisonment for a term of not less than seven years and not more than fifteen years and shall, in addition, be automatically dismissed from the public service and, subject to section 113 of the Constitution, forfeit all rights to any pension, gratuity or other payment which may at the date of his conviction have accrued due to him.

(2) Any person who unlawfully supplies by sale, gift, loan or otherwise to any public officer any Government or other firearm or any ammunition shall be guilty of an offence and liable to imprisonment for a term of not less than seven years and not more than fifteen years and shall, in addition, in the case of a public officer be automatically dismissed from the public service and, subject to section 113 of the Constitution, forfeit all rights to any pension, gratuity or other payment which may at the date of his conviction have accrued due to him.

(3) It shall not be a defence to a charge under this section that the act constituting the offence alleged was carried out by the accused person upon the orders of any other public officer.

(4) The burden of proving that the purpose for which the firearm was used was a lawful purpose or, as the case may be, that the disposal of the firearm or ammunition was with lawful authority shall lie upon the person alleging the same, and in any proceedings under this section it shall not be necessary for the prosecution to prove the lack of any such purpose or authority.

(5) A sentence of imprisonment in respect of an offence under this section shall be served after the conclusion of any other term of imprisonment passed at the same time for any other offence.

(6) For the purposes of this section the expression “**public officer**” shall include any member of the Kenya Wildlife Service established under the Wildlife (Conservation and Management) Act, for the time being in possession of any Government firearm or ammunition and using it under section 57A of that Act.

[Act No. 8 of 1988, s. 8, Act No. 16 of 1989, s. 14, Act No. 11 of 1993, Sch.]

27. Importation and exportation of firearms and ammunition

(1) No person shall import or export any firearm or ammunition save under and in accordance with the terms of an import or export permit issued by an authorized officer:

Provided that where any firearm or ammunition, not being a firearm or ammunition the importation of which is for the time being prohibited under subsection (2), is imported for the personal use of the owner thereof but without an import permit under this section having been previously obtained authorizing the importation thereof, the importation shall not be deemed to contravene the provisions of this section if the firearm or ammunition on importation is left in customs control until an import permit under this section is obtained in respect of the importation thereof.

(2) No person shall import or export any firearm or ammunition, or any firearm or ammunition of a class or type, of which the importation or exportation is for the time being prohibited by the Minister by order published in the *Gazette*.

(3) Any person who contravenes any of the provisions of subsections (1) and (2) shall be guilty of an offence and liable to imprisonment for a term of not less than seven years and not more than fifteen years.

(4) An authorized officer may, without assigning any reason therefor, refuse to grant any import or export permit under this section, and shall refuse to grant any such permit authorizing—

- (a) the importation or exportation of any arms or munitions of war unless the Minister has sanctioned their importation or exportation; or
- (b) the importation or exportation of any firearm or ammunition of which the importation or exportation is for the time being prohibited under subsection (2).

(5) Import and export permits under this section shall be in the prescribed forms, and there shall be payable in respect thereof the prescribed fees.

(6) An authorized officer may, without assigning any reason therefor, revoke any import or export permit granted under this section at any time before the firearms or ammunition to which it relates have been imported or exported in pursuance thereof.

(7) Any person who makes any statement which he knows to be false for the purpose of procuring, whether for himself or for any other person, the issue of an import or export permit under this section shall be guilty of an offence and liable to imprisonment for a term of not less than seven, but not exceeding fifteen years.

(8) For the purposes of this section, “**authorized officer**” means a police officer or customs officer authorized by the Commissioner of Police in writing to grant import and export permits under this section or a licensing officer appointed under section 3.

(9) In this section, “firearm” includes safety, toy and alarm pistols and rifles which are capable of being converted into, or have the appearance of, lethal barrelled weapons, or which can be used or adapted for the discharge of any noxious liquid, gas or similar thing, and “**ammunition**” means ammunition to which Part II applies.

[Act No. 4 of 1960, ss. 16 and 21, Act No. 36 of 1962, Sch., L.N. 400/1963, L.N. 124/1964, Act No. 11 of 1993, Sch., Act No. 2 of 2002, Sch.]

28. Places of importation of firearms or ammunition and removal therefrom

(1) No person shall import any firearm or ammunition save at any one or more places designated for the purpose by the Minister, and all firearms and ammunition imported at any such place shall be detained in customs control pending removal in accordance with the provisions of this section.

(2) No person who imports any firearm or ammunition by way of trade or business, or for the purposes of any trade or business, or for any purpose other than his own personal use, shall remove it, or cause it to be removed, from customs control, unless he has first obtained a removal permit under section 29 authorising the removal thereof from the place at which it is detained in customs control.

(3) No person who imports a firearm or ammunition for his own personal use shall remove it, or cause it to be removed, from customs control unless he has first obtained a firearm certificate, or a permit under subsection (11) of section 7, in respect thereof, or unless he is entitled by virtue of this Act to have the firearm or ammunition in his possession without holding a firearm certificate.

(4) Any person who contravenes any of the foregoing provisions of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding ten years.

(5) In this section, “**firearm**” includes safety, toy and alarm pistols and rifles which are capable of being converted into, or have the appearance of, lethal barrelled weapons, or which can be used or adapted for the discharge of any noxious liquid, gas or similar thing, and “**ammunition**” means ammunition to which Part II applies.

[Act No. 4 of 1960, ss. 16 and 21, Act No. 2 of 2002, Sch.]

29. Removal and transportation of firearms and ammunition within Kenya

(1) Subject to subsection (4), no person shall remove or transport, or cause to be removed or transported, any firearm or ammunition from one place to another in Kenya, whether for the purpose of export or otherwise, save under and in accordance with a removal permit issued by a licensing officer.

(2) Any person who contravenes any of the provisions of subsection (1), or who makes any statement which he knows to be false for the purpose of procuring for himself or any other person the issue of a removal permit under this section, shall be guilty of an offence and liable to imprisonment for a term not exceeding one year or to a fine not exceeding ten thousand shillings or to both.

(3) No removal permit shall be issued under this section authorizing the removal or transport of firearms or ammunition by road from one area to another, save with the general or specific authority of the Commissioner of Police.

(4) Nothing in this section shall apply to—

- (a) a person carrying on the business of an approved carrier, or an approved servant of such a person, in respect of the removal or transportation of any firearms or ammunition in the ordinary course of that business;
- (b) the holder of a firearm certificate, or of a permit under subsection (11) of section 7, in respect of the carriage with him and in accordance with the terms of the firearm certificate or permit of any firearm or ammunition to which the firearm certificate or permit relates;
- (c) any person, not being a registered firearms dealer, in respect of the carriage with him of any firearm or ammunition which he is entitled by virtue of the provisions of this Act to have in his possession without holding a firearm certificate; or
- (d) the removal or transport by a registered firearms dealer of any firearm or ammunition in his possession in the ordinary course of his business as such from one of his places of business to another, or from or to his own place of business to or from the place of business of another registered firearms dealer.

(5) A permit issued under this section may at any time be revoked by the licensing officer who issued it, and the licensing officer shall not be compelled to assign any reason for revocation.

(6) In this section, “**firearm**” and “**ammunition**” mean respectively a firearm and ammunition to which Part II applies.

[Act No. 4 of 1960, s. 17, Act No. 2 of 2002, Sch.]

30. Firearms and ammunition in transit through Kenya

Notwithstanding anything in this Act, a licensing officer may grant with or without conditions, refuse, suspend or revoke transit permits for the importation or exportation, or the removal within or transportation across Kenya, of any firearms or ammunition in transit through Kenya to any place outside Kenya, and the importation, exportation, removal, transportation and possession of any such arms or ammunition under and in accordance with the terms of any such transit permit shall be lawful and shall not constitute an offence under this Act.

31. Restrictions on carriage by vessels

(1) Subject to subsection (2), no person shall ship or off-load any firearms or ammunition in or from a vessel of less than five hundred tons burden.

(2) The provisions of this section shall not apply—

- (a) to lighters or barges lawfully engaged in loading or unloading ships;
- (b) to firearms or ammunition conveyed on behalf of the Government and accompanied by an officer of the Government;
- (c) to a firearm or ammunition in the possession of a person holding a firearm certificate in respect thereof or entitled by virtue of this Act to have the firearm or ammunition in his possession without holding a firearm certificate, where the firearm or ammunition is for the personal use of the person in possession thereof.

(3) For the purposes of this section, “**vessel**” means a vessel either—

- (i) owned by; or
- (ii) fitted out by; or
- (iii) of which more than half the crew are,

of any country bordering on the Indian Ocean, the Red Sea, the Arabian Gulf or the Gulf of Oman.

[Act No. 8 of 1988, s. 9.]

32. Restrictions on possession of firearms and ammunition by young persons

(1) No person under the age of twelve years shall have in his possession any firearm or ammunition to which Part II applies, and no person under the age of fourteen years shall have in his possession any firearm or ammunition to which Part II applies other than a miniature rifle not exceeding 0.22 calibre or a shotgun the bore of which is not larger than 20 gauge, and ammunition suitable therefor, except in circumstances where he is entitled to have possession thereof without holding a firearm certificate by virtue of subsection (8), subsection (9) or subsection (10) of section 7; and no person shall part with the possession of any

such firearm or ammunition to any person whom he knows or has reason to believe to be under the age of twelve or fourteen years, as the case may be, except in circumstances where that other person is entitled to have possession thereof.

(2) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding one year or to a fine not exceeding ten thousand shillings or to both.

[Act No. 2 of 2002, Sch.]

33. Carrying firearm while drunk or disorderly

Any person who is drunk, or who behaves in a disorderly manner, while carrying a firearm to which Part II applies, shall be guilty of an offence and liable to imprisonment for a term not exceeding one year or to a fine not exceeding ten thousand shillings or to both.

[Act No. 2 of 2002, Sch.]

34. Penalty for use and possession of firearms or imitation firearms in certain cases

(1) If any person makes or attempts to make any use of a firearm or an imitation firearm with intent to commit any criminal offence he shall be guilty of an offence and liable to imprisonment of not less than seven, but not exceeding fifteen years, and where any person commits any such offence he shall be liable to the penalty provided by this subsection in addition to any penalty to which he may be sentenced for that other offence.

(2) A firearm or imitation firearm shall, notwithstanding that it is not loaded or is otherwise incapable of discharging any shot, bullet or other missile, be deemed to be a dangerous weapon or instrument for the purposes of the Penal Code (Cap. 63).

(3) In this section, “**imitation firearm**” means anything which has the appearance of being a firearm, whether it is capable of discharging any shot, bullet or other missile or not.

[Act No. 8 of 1988, s. 10, Act No. 2 of 2002, Sch.]

35. Appeals under this Part

(1) Any person who is aggrieved by the refusal of an authorized officer to issue to him an import permit or export permit under section 27, or by the revocation of any such permit, or by the refusal of a licensing officer to issue to him a removal permit under section 29, or by the revocation of any such permit, or by the refusal of a licensing officer to grant him a transit permit under section 30, or by the imposition of any condition attached to any such permit, or by the suspension or revocation of any such permit, may appeal to the Minister, whose decision shall be final.

(2) The provisions of subsections (2) and (3) of section 23 shall apply *mutatis mutandis* to appeals under this section.

[G.N. 1602/1955, L.N. 173/1960.]

PART IV – GENERAL

36. Convicted persons not to possess firearms or ammunition; forfeiture of firearms and ammunition; and cancellation of firearm certificates

(1) Where any person—

- (a) is convicted of an offence under this Act or is convicted of an offence for which he is sentenced to imprisonment, or to detention of any description in an approved school or other place of detention; or
- (b) has been ordered to be subject to police supervision, or to enter into recognizance to keep the peace or to be of good behaviour a condition of which is that the offender shall not possess, use or carry a firearm, or is subject to a probation order containing a requirement that he shall not possess, use or carry a firearm,

the following provisions shall apply—

- (i) the Court before whom that person is convicted or by whom the order is made may make such order as to forfeiture or disposal of any firearm or ammunition which was found in his possession or in respect of which the offence of which he is convicted was committed or which was used in the commission of the offence as the Court thinks fit, and may cancel any firearm certificate or permit under subsection (12) or subsection (13) of section 7 held by the person convicted;
- (ii) in the case of a person convicted, or convicted and sentenced, as mentioned in paragraph (a), the Court before whom he is convicted may order that the person shall not, at any time during such period, not exceeding ten years from the date of his release, as may be specified in the order, have in his possession any firearm or ammunition or, as the case may be, any firearm or ammunition of a class or description specified in the order.

(2) Subject to this section, no person who is subject to the supervision of the police, or is subject to a recognizance to keep the peace or to be of good behaviour a condition of which is that he shall not possess, use or carry a firearm, or is subject to a probation order containing a requirement that he shall not possess, use or carry a firearm, shall, at any time during which he is so subject, have a firearm or ammunition in his possession.

(3) Subject to the provisions of any other law for the time being in force under which a condition or requirement such as is referred to in subsection (2) is imposed or made, a person prohibited by that subsection from having in his possession a firearm or ammunition may apply to the Minister for exemption from the prohibition, and, if the application is granted, the provisions of that subsection shall not apply to that person.

(4) The Minister may grant or refuse an application for exemption under subsection (3) and shall not be required to assign any reason for refusal.

(5) No person shall sell or transfer a firearm or ammunition to, or repair, test or prove a firearm or ammunition for, any person whom he knows, or has reasonable ground for believing, to be prohibited by this section or by any order made thereunder from having a firearm or ammunition in his possession.

- (6) Where a court cancels a firearm certificate or permit under this section—
- (a) the Court shall cause notice to be sent to the chief licensing officer;
 - (b) the licensing officer shall by notice in writing require the holder of the firearm certificate or permit to surrender it; and
 - (c) if the holder fails to surrender the firearm certificate or permit within fourteen days from the date of the last-mentioned notice, he shall be guilty of an offence and liable to a fine not exceeding five thousand shillings.

(7) Subject to paragraph (c) of subsection (6), any person who contravenes any provision of this section or of any order made thereunder shall be guilty of an offence and liable to imprisonment for a term not exceeding two years or to a fine not exceeding twenty thousand shillings or to both.

[Act No. 4 of 1960, s.18, G.N. 1602/1955, L.N. 173/1960, Act No. 2 of 2002, Sch.]

37. Search warrants and disposal of firearms and ammunition seized

(1) A court, if satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act has been, is being or is about to be committed, may grant a search warrant authorizing a police officer or other person therein named—

- (a) to enter at any time any premises or place named in the warrant, if necessary by force, and to search the premises or place and every person found therein; and
- (b) to seize and detain any firearm or ammunition which he may find on the premises or place, or on any such person, in respect of which or in connection with which he has reasonable ground for suspecting that an offence under this Act has been, is being or is about to be committed; and
- (c) if the premises are those of a registered firearms dealer, to examine any books relating to the business.

(2) A court may, on the application of a police officer, customs officer or licensing officer, order any firearm or ammunition seized and detained under this Act to be destroyed or otherwise disposed of.

[Act No. 4 of 1960, s. 19, Act No. 7 of 1963, s. 2.]

38. Disposal of firearms, etc.

(1) Where any firearm or ammunition has been held for a period exceeding three months in a firearms store maintained by the Kenya Police Force, the Commissioner of Police may order the destruction or other disposal of that firearm or ammunition together with any case, holster, strap, lanyard, cleaning equipment, spare part or other accessory packed, carried or stored with the firearm or ammunition.

(2) Before destruction or disposal under subsection (1) the Commissioner of Police shall take such steps as he deems possible and appropriate to give notice to the owner of the firearm or ammunition (if known) of his intention so to act, and subject thereto shall allow the owner a period of not less than two months within which to make arrangements to the satisfaction of the Commissioner of Police for the disposal of the firearm or ammunition.

(3) In the event of a firearm or ammunition being sold by the Commissioner of Police or any person or body on his behalf, the proceeds of the sale, after deduction of the expenses of and incidental to the sale, shall be paid over to the owner or, if the owner cannot by the exercise of reasonable diligence be traced, shall be held on deposit for a period of three months and shall then be paid into the Consolidated Fund.

(4) Where the firearm or ammunition has been sold in bulk together with other firearms or ammunition in circumstances which prevent the actual proceeds and expenses from being separately identified, the proportions of the bulk proceeds and expenses attributable to the owner shall be assessed and determined by or under the directions of the Commissioner of Police.

(5) No compensation shall be payable to any person in respect of any act or omission done or made in good faith under this section.

[Act No. 7 of 1963, s. 3, Act No. 19 of 1964, s. 2.]

39. Appeals in connection with disposal of firearms, etc.

(1) Any owner aggrieved by any act or omission done or made under section 38 may, within fourteen days of the receipt of notice, whether written or oral, of the act or omission or, in the absence of notice, within thirty days of the act or omission, appeal to the Minister, whose decision thereon shall be final.

(2) On an appeal under this section, the Minister may either dismiss the appeal or give such directions as he may think fit to the Commissioner of Police as to the destruction, disposal, sale or retention of the firearm or ammunition which is the subject of the appeal.

[Act No. 7 of 1963, s. 3.]

40. Power to inspect premises

A police officer may at all reasonable times enter upon any premises with a view to ascertaining whether or not the provisions of this Act or of any rules made thereunder are being complied with, and may inspect the premises and any firearm or ammunition, book, account, register, document or thing found therein, and may require any person appearing to be in control thereof or employed therein to give such information as such police officer may require in order to ascertain whether or not the provisions of this Act or of any rules made thereunder are being complied with.

41. Penalty for obstructing a police officer

Any person who obstructs a police officer in the exercise of any of the powers conferred on him by or under section 37 or section 40, or who fails to give to a police officer any information which he is lawfully required by the police officer under either of those sections to give to him, shall be guilty of an offence and liable to imprisonment for a term not exceeding two years or to a fine not exceeding twenty thousand shillings, or to both.

[Act No. 2 of 2002, Sch.]

42. Arrest without warrant

A police officer may arrest without warrant any person whom he suspects on reasonable grounds of having committed an offence under this Act.

43. Jurisdiction

A magistrate holding a subordinate court of the first class shall have power to try any offence under this Act, other than an offence under subsection (1) of section 34 and to award any punishment provided therefor.

44. Service of documents, notices, etc.

Except where otherwise expressly provided by this Act, any demand or notice required or authorized by this Act to be made of or given to any person shall be served either—

- (a) by delivering it to the person to whom it is addressed; or
- (b) by sending it by registered post addressed to that person at his last known postal address; or
- (c) in the case of a registered firearms dealer, by delivering it to him at any place of business in respect of which he is registered or by sending it by registered post addressed to him at his last known postal address.

[Act No. 4 of 1960, s. 20.]

45. Power to make rules

The Minister may make rules—

- (a) prescribing the form of a firearm certificate, and of any register required to be kept under this Act, and of any other permit or document under this Act;
- (b) prescribing the fees to be paid for anything done, or any permit, document or authorisation issued or granted, under this Act;
- (c) prescribing any other thing which under this Act is to be prescribed;
- (d) providing for the establishment and maintenance of a central registry of firearms and ammunition;
- (e) regulating the manner in which licensing officers and other officers are to carry out their duties under this Act;
- (f) enabling all or any of the functions of a licensing officer to be discharged by deputy in the event of the illness or absence, or a vacancy in the office, of a licensing officer;
- (g) generally for carrying this Act into effect.

[G.N. 1602/1955, L.N. 173/1960.]

46. Savings

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

(2) Nothing in this Act relating to firearms shall apply to an antique firearm which is sold, transferred, purchased, acquired, imported, exported, transported or possessed as a curiosity or ornament.

Firearms

(3) Notwithstanding any rule of law whereunder the provisions of this Act do not bind the Government, the provisions of section 16, subsections (3) and (4) of section 18, section 33 and section 34 shall apply to persons in the service of the Government in their capacity and in the course of their duty as such.
