

CHAPTER 24:01
ARMS AND AMMUNITION

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Act 20, 1979,
S.I. 116, 1979,
S.I. 89, 1981.

An Act to provide for the control of Arms and Ammunition.

[Date of Commencement: 31st December, 1981]

PART I
Introduction (ss 1-2)

1. Short title

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

2. Interpretation

In this Act, unless the context otherwise requires-

"air gun" means any weapon, whether of smooth or rifled bore, from which a missile can be projected by means of compressed air or other gas;

"ammunition" means any cartridge or percussion cap designed for use in the discharge of arms and includes gunpowder and grenades, bombs and other like missiles, whether capable of use with those arms or not, and any munition containing or designed or adapted to contain any noxious liquid, gas or other thing;

"arms" 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 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, and includes the barrel, bolt and chamber and any other essential component part of any that weapon;

"arms dealer" means a person who by way of trade or business sells, transfers, repairs, tests or proves arms or ammunition;

"arms dealer's licence" means a licence issued under section 14;

"arms licence" means a licence issued under section 9;

"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 breach-loading weapons, or such arms as may be prescribed, but does not include sporting rifles, or personal or other weapons or apparatus not intended for warlike purposes;

"Board" means the Arms and Ammunition Quota Board referred to in section 4;

"Commissioner" means the Commissioner of Police;

"customs officer" means an "officer" as defined in the Customs and Excise Duty Act;

"export permit" means a permit issued under section 8;

"game warden" has the meaning as defined in the Wildlife Conservation and National Parks Act;

"import permit" means a permit issued under section 6;

"licensing officer" means an officer appointed under section 3(2);

"manufacturer's licence" means a licence issued under section 12;

"munitions of war" means ammunition for use with arms of war;

"registration certificate" means a certificate issued under section 7;

"Registry" means the Central Arms Registry referred to in section 5.

PART II

Administration (ss 3-5)

3. Commissioner of Police and licensing officers

(1) Subject to the provisions of this Act, the Commissioner of Police (in this Act referred to as the "Commissioner") shall be responsible for the administration of this Act.

(2) The Commissioner may appoint such police officers as may be necessary, to be known as licensing officers, to assist in the administration of this Act.

4. Arms and Ammunition Quota Board

(1) There shall continue to be the Arms and Ammunition Quota Board which shall consist of the Commissioner and such other persons as the Minister may, by notice published in the *Gazette*, appoint.

(2) The Board shall be responsible for regulating the importation and exportation of arms and ammunition into and out of Botswana.

(3) Regulations may provide for the procedure governing the functions of the Board under this Act.

5. Central Arms Registry

(1) There shall be a Central Arms Registry where there shall be recorded such information relating to arms and ammunition in accordance with the provisions of this Act and such other information as may be prescribed.

(2) The Central Arms Registry shall be under the control and management of the Commissioner.

PART III

Importation and Exportation of Arms and Ammunition (ss 6-8)

Importation of Arms and Ammunition (s 6)

6. Prohibition of importation of arms and ammunition

(1) Subject to the provisions of this section, no person shall import any arms or ammunition except under and in accordance with an import permit issued under this section.

(2) Arms or ammunition for the purpose of sale shall be imported only under the authority of an arms dealer's import permit.

(3) Regulations may provide for the issue and renewal of an import permit, the conditions and duration of the permit, and any fee payable for the issue of the permit.

(4) Nothing in this section shall apply to the re-importation of any arms or ammunition in respect of which a licence is in force.

(5) Subject to subsection (6), any person who contravenes any provision of this section shall

be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P1000 or to a term of imprisonment not exceeding one year, or to both.

(6) Where the arms or ammunition in relation to which an offence has been committed is arms or ammunition of war, the penalty shall be a term of imprisonment of not less than five years and not more than 10 years.

Registration of Arms and Ammunition (s 7)

7. Registration of imported arms and ammunition

(1) All arms and ammunition imported into Botswana either for the purpose of sale or for the personal use of the importer shall be registered in such manner as may be prescribed.

(2) Regulations may provide for the issue of a registration certificate, the conditions and duration of the certificate, and any fee payable for the issue of the certificate.

(3) Subject to subsection (4), no person shall be issued with an arms licence under section 9 unless the arms or ammunition in relation to which the application is made has been registered in accordance with the provisions of this section.

(4) Regulations made under this section may exempt such persons as may be prescribed from registering their arms or ammunition.

(5) Regulations exempting persons under this section may provide for the issue of a temporary permit for the possession of arms and ammunition and any fee payable for the permit.

(6) A temporary permit issued under this section shall be valid for one month only from the date of issue.

(7) Subject to subsection (8), any person who contravenes any provision of this section shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P2000 or to a term of imprisonment not exceeding two years, or to both.

(8) Where the arms or ammunition in relation to which an offence has been committed is arms or ammunition of war, the penalty shall be a term of imprisonment of not less than five years and not more than 10 years.

Exportation of Arms and Ammunition (s 8)

8. Prohibition of exportation of arms and ammunition

(1) Subject to the provisions of this section, no person shall export any arms or ammunition except under and in accordance with an export permit issued under this section.

(2) Regulations may provide for the issue and renewal of an export permit, the conditions and duration of the permit, and any fee payable for the issue of the permit.

(3) Any person who contravenes any provision of this section shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P1000 or to a term of

imprisonment not exceeding one year, or to both.

PART IV

Restrictions as to Possession of Arms and Ammunition (ss 9-11)

9. Restrictions against possession of arms and ammunition without a licence

(1) Subject to the provisions of this Act, no person shall own, purchase, acquire or have in his possession any arms or ammunition except under and in accordance with an arms licence issued under this section.

(2) The provisions of this section shall not apply to any air gun, air rifle or air pistol not being a type prescribed to be specifically dangerous.

(3) Regulations may provide for the issue and renewal of an arms licence, the conditions and duration of the licence, and any fee payable for the issue of the licence.

(4) Subject to subsection (5), any person who contravenes any provision of this section shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P250.

(5) Where the arms or ammunition in relation to which an offence has been committed is arms or ammunition of war, the penalty shall be a term of imprisonment of not less than five years and not more than 10 years.

10. Exemptions from holding licence

(1) Regulations may provide for the exemption of such persons as may be prescribed from complying with the provisions of section 9.

(2) Regulations exempting persons under this section may provide for the issue and renewal of a certificate of exemption, the conditions and duration of the certificate, and any fee payable for the issue of the certificate.

11. Production of arms licence or certificate

(1) Subject to the provisions of this section, any licensing officer, game warden or customs officer may demand from any person whom he has reasonable grounds to believe to be in possession of arms or ammunition the production of his arms licence, certificate, permit or an exemption certificate, as the case may be.

(2) Where a person required under this section to produce any document under subsection (1) is unable to do so but gives the officer a satisfactory address within Botswana he may, in that case, be allowed 30 days within which to comply with the provisions of this section.

(3) If within the 30 days specified in subsection (2) the person fails to produce the required document the officer shall seize and retain the arms or ammunition which shall be forfeited to the State and shall be disposed of as the Minister may direct.

(4) Notwithstanding the provisions of subsection (3), any person who fails to comply with any demand made under this section or who gives a false name or address shall be guilty of an

offence and on conviction thereof shall be liable to a fine not exceeding P250 and, in default of payment thereof, to a term of imprisonment not exceeding three months.

PART V

Manufacture, Repair and Conversion of Arms and Ammunition (s 12)

12. Restriction on manufacture of arms and ammunition

(1) Subject to the provisions of this section, no person shall manufacture any arms or ammunition except under and in accordance with a manufacturer's licence issued under this section.

(2) Regulations may provide for the issue and renewal of a manufacturer's licence, the conditions and duration of the licence, and any fee payable for the issue of the licence.

(3) For the purposes of this Act "manufacture", in relation to arms or ammunition, includes reloading of ammunition and the conversion into arms of any thing which has the appearance of arms but is so constructed as to be incapable of discharging a missile through the barrel thereof, but does not include the repair of arms or ammunition or the alteration or substitution or replacement part of the arms.

(4) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable on conviction thereof to a fine not exceeding P3000 or to a term of imprisonment not exceeding three years, or to both.

(5) Any licensing officer who has reason to suspect that the provisions of this section have been or are being contravened may seize and retain any arms or ammunition or any material or article which he has reason to suspect may be the subject of, or has been used in connection with, the contravention.

(6) Any arms or ammunition seized under this section shall be forfeited to the State and shall be disposed of as the Minister may direct.

PART VI

Sale and Transfer of Arms and Ammunition (ss 13-17)

13. Restrictions on sale or transfer of arms or ammunition

(1) No person shall by way of trade or business-

(a) purchase, sell or transfer; or

(b) accept or expose for sale or transfer or have in his possession for sale or transfer,

any arms or ammunition unless he is a registered arms dealer in accordance with the provisions of section 14.

(2) No person shall sell, transfer or otherwise dispose of any arms or ammunition to any other person in Botswana unless-

- (a) that other person is a registered arms and ammunition dealer;
- (b) that other person is the holder of an arms licence authorizing him to purchase, acquire or have in his possession the arms or ammunition in question, or shows that he is a person entitled by virtue of the provisions of this Act to purchase, acquire or have in his possession those arms or ammunition without holding an arms licence; or
- (c) the transferor is a carrier or an employee of a carrier and the delivery of those arms or ammunition is in the ordinary course of his business or employment as such.

(3) Any person who contravenes any provision of this section shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P2000 or to a term of imprisonment not exceeding two years, or to both.

14. Registration of arms dealers

(1) Subject to the provisions of this section, no person shall be a dealer in arms or ammunition or both, unless he has been registered as a dealer in arms and ammunition in accordance with the provisions of this section and has been issued with an arms dealer's licence.

(2) Regulations may provide for the issue and renewal of an arms dealer's licence, the conditions and duration of the licence, and any fee payable for the issue of the licence.

(3) Regulations providing for the issue of an arms dealer's licence may designate dealers as either wholesale dealers or retail dealers.

(4) If any person, who for the purpose of procuring the registration of himself or any other person as an arms dealer, makes any statement which he knows to be false, he shall be guilty of an offence and liable on conviction thereof to a fine not exceeding P500 or to a term of imprisonment not exceeding six months, or to both.

15. Separate places of business

(1) Subject to the provisions of this section, no person shall be registered as an arms dealer under section 14 in respect of more than one place of business without a separate registration for each place of business concerned.

(2) Where one business is carried on in premises divided by walls but otherwise forming part of one building or structure, in which a case only one registration shall be required therefor.

(3) Nothing in this section shall prohibit the use of separate premises purely for the purpose of storing goods used or acquired in the registered business.

16. Register of arms dealers

For the purposes of this Act, the Commissioner shall keep or cause to be kept in the prescribed form a register of all dealers in arms and ammunition.

17. Powers of Minister in case of offences by registered arms dealers

Where a registered arms dealer is convicted of an offence against this Act, or against any law for the time being in force in Botswana relating to customs in respect of the import or export of arms or ammunition and the dealer fails to appeal against the conviction or where an appeal against the conviction is dismissed, the Minister may order that-

- (a) the name of the registered arms dealer be removed from the register;
- (b) neither the dealer nor any person who acquires the business of the dealer nor any person who took part in the management of the business or was knowingly a party to the offence shall be registered as an arms dealer;
- (c) 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 an arms dealer or, if so registered, shall be removed from the register; and
- (d) any stock in hand of the business shall be forfeited to the State and shall be disposed of as the Minister may direct.

PART VII

Records, Storage and Safe Custody (ss 18-21)

18. Register of transactions in arms and ammunition

(1) Every registered arms dealer shall keep a register of transactions relating to his business as a dealer (in this section referred to as a "dealer's register"), including the sale, transfer, repair, test or proof of arms and the sale or transfer of arms and ammunition, and shall enter therein such particulars as may be prescribed.

(2) Every registered arms dealer shall on demand allow any licensing officer to enter his place of business and inspect all stock in hand, and shall on request by that officer produce for inspection his dealer's register.

(3) Every registered arms dealer shall render punctually to the Commissioner such reports and returns as may be prescribed.

(4) Any person who-

- (a) contravenes any provision of this section;
- (b) knowingly makes any false entry in a dealer's register; or
- (c) knowingly furnishes any false particulars of identification of himself for the purposes of this section,

shall be guilty of an offence and be liable on conviction thereof to a fine not exceeding P500 or to a term of imprisonment not exceeding six months, or to both.

19. Storage and safe custody

(1) Every registered arms dealer shall make suitable provision at his place of business for the

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storage and safe custody of all arms and ammunition in his possession to the satisfaction of the licensing officer of the area in which his business is situated.

(2) Every person having in his possession any arms or ammunition shall take all reasonable precautions to ensure that the arms or ammunition is not at any time available to any person not lawfully entitled to possess them.

(3) Every person having in his possession any arms or ammunition shall at all times ensure that the arms or ammunition is kept in a safe and secure place.

(4) Any person who contravenes any provision of this section shall be guilty of an offence and be liable on conviction thereof to a fine not exceeding P500 or to a term of imprisonment not exceeding six months, or to both.

(5) In any prosecution under this section arising from the unlawful possession, theft or loss of any arms or ammunition the onus shall lie on the accused person to prove that his arrangements for the storage, safe custody, or security of any arms or ammunition, the subject of the charge, were adequate.

20. Loss of arms or ammunition to be reported

(1) Any person having possession of arms or ammunition shall, if the arms or ammunition is lost, stolen or accidentally destroyed, or in the case of arms if they are rendered incapable of further use, report the facts as soon as possible after the occurrence to the police officer in charge of the nearest police station.

(2) Any person who contravenes any provision of this section shall be guilty of an offence and be liable on conviction thereof to a fine not exceeding P500 or to a term of imprisonment not exceeding six months, or to both.

21. Destruction of arms

(1) Where any person is in possession of arms for which he has no further use or which have been rendered incapable of further use and wishes to destroy them, he shall surrender the arms to the licensing officer of the area in which he resides and that officer shall-

- (a) destroy them by rendering them incapable of future use; or
- (b) if the arms are of any possible value or use, with the authority of the person surrendering them, forward them to the Central Arms Registry for disposal in such manner as the Minister may direct.

(2) Any person surrendering any arms under subsection (1) shall at the same time surrender any licence, certificate or permit relating to them.

(3) Any person who contravenes any provision of this section shall be guilty of an offence.

PART VIII ***Appeals (s 22)***

22. Appeals

(1) Where any person is aggrieved by the refusal of any application made in accordance with the provisions of this Act for the issue of any licence, certificate or permit, or the removal by the Commissioner of his name from the register of arms dealers, he may appeal in writing to the Minister, whose decision shall be final.

(2) Notice of appeal under this section specifying the grounds thereof shall be lodged with the Commissioner within 14 days after the date on which the appellant first received notice, whether written or oral, of the decision by which he is aggrieved and the Commissioner shall cause the notice of appeal to be sent to the Minister without delay.

(3) On an appeal under this section the Minister may either dismiss the appeal or give such directions to the Commissioner as he may think fit.

PART IX

Miscellaneous Provisions as to Arms and Ammunition (ss 23-26)

23. Special types of arms and ammunition

(1) It shall not be lawful for any person, other than a person in the service of the State in his capacity as such or a person 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 published in the *Gazette*, to sell, transfer, purchase, acquire, or have in his possession-

- (a) any arms which are 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;
- (b) any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or similar thing;
- (c) any ammunition containing, or designed or adapted to contain, any noxious liquid, gas or similar thing referred to in paragraph (b); or
- (d) any arms or ammunition or type of class thereof specified by the Minister by order published in the *Gazette*.

(2) Any person who contravenes any provision of subsection (1) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P3000 or to a term of imprisonment not exceeding three years, or to both.

(3) An authority given under this section shall be subject to such conditions as may be specified therein, and, if any person so authorized fails to comply with any of those conditions, he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P500 or to a term of imprisonment not exceeding six months, or to both.

(4) The Minister may at any time, if he thinks fit, 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 other person as may be specified in the notice within 14 days from the date of

the notice, and if that person without reasonable cause, proof of which shall lie upon him, fails to comply with that requirement he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P500 or to a term of imprisonment not exceeding six months, 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 published in the *Gazette*.

24. Possession of arms and ammunition by young persons

(1) Subject to the provisions of this section, a person who has not attained the age of 18 years shall not purchase, acquire or have in his possession any arms or ammunition and no person shall let on hire or give any arms or ammunition to a person whom he knows or has reason for believing to be under the age of 18 years.

(2) A person who has attained the age of 15 years may have in his possession arms or ammunition if he is an exempted person in accordance with the provisions of section 10 or where he is under the immediate supervision of an adult who is authorized under this Act to possess arms or ammunition.

(3) Any person who contravenes any provision of this section shall be guilty of an offence.

25. Use of arms to resist arrest

(1) Any person who makes or attempts to make any use whatsoever of arms or imitation arms with intent to resist or prevent the lawful apprehension or detention of himself or any other person shall be guilty of an offence and on conviction thereof shall be liable to a term of imprisonment not exceeding 14 years.

(2) In this section the expression "imitation arms" means any thing which has the appearance of being arms, whether they are capable of discharging any shot, bullet or other missile or not.

26. Dangerous acts with arms

Any person who without reasonable cause, proof of which shall lie with him, discharges or fires any arms at any place in a manner which causes or is likely to cause injury or danger to any other person, or damage to any property, shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P250 or to a term of imprisonment not exceeding three months, or to both.

PART X **General (ss 27-30)**

27. Restriction of convicted person possessing arms or ammunition

(1) A court convicting any person of an offence under this Act may order the forfeiture to the State of any arms or ammunition which was found in that person's possession or in respect of which he was convicted.

(2) Where any person is convicted of an offence under this Act the Minister may-

- (a) cancel any licence or certificate issued to him under this Act; and
- (b) order that he shall not, at any time during such period as may be specified, not exceeding 10 years from the date of his conviction, have in his possession any arms or ammunition or any type or class of arms or ammunition specified in the order.

(3) Any arms or ammunition forfeited under this section shall be disposed of as the Minister may direct:

Provided that, where the Minister is satisfied that a person convicted of an offence under this Act is not the owner of the arms or ammunition in relation to which the offence has been committed, he may order the return of those arms or ammunition to the rightful owner.

(4) Any person whose licence or certificate has been cancelled in accordance with the provisions of this section shall, within 14 days from the date of the notification of the cancellation, surrender the document to the Commissioner.

(5) Any person who contravenes any provision of this section or any order made thereunder shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P200 or to a term of imprisonment not exceeding six months, or to both.

28. Service of notices

Any notice required or authorized by this Act to be given to any person may be sent by registered post in a letter addressed to him at his last or usual place of abode, or, in the case of a registered arms dealer, at the place of business in respect of which he is registered.

29. Offences

Any person found guilty of an offence under this Act for which no other penalty is provided shall be liable on conviction thereof to a fine not exceeding P500 or to a term of imprisonment not exceeding six months, or to both.

30. Regulations

The Minister may, by statutory instrument, make regulations providing for any matter which under this Act is to be provided for by regulations or to be prescribed.