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No. 34 of 2011



No. 38 of 2011

## FIREARMS (AMENDMENT) ACT, 2011

AN ACT TO AMEND THE FIREARMS ACT TO PROVIDE FOR INCREASES IN THE PENALTIES FOR OFFENCES RELATING TO THE IMPORTATION AND POSSESSION OF FIREARMS AND TO PROVIDE FOR A SENTENCING RANGE FOR THESE OFFENCES AND MATTERS CONNECTED THEREWITH

(Date of Assent – 3<sup>rd</sup> November, 2011)

Enacted by the Parliament of The Bahamas

**1. Short title.**

This Act, which amends the Firearms Act (*Ch. 213*), may be cited as the Firearms (Amendment) Act, 2011.

**2. Amendment of section 2 of the principal Act.**

Section 2 of the principal Act is amended by inserting in the appropriate alphabetical sequence, the following expressions and their definitions —

“**import**” means to bring or cause to be brought into The Bahamas or any other country, as the case may be, by land, air or water;

“**rifle**” means a firearm that has a rifled barrel and is designed to be discharged from the shoulder and includes a rifle that is so modified to be discharged otherwise;”.

**3. Amendment of section 3 of the principal Act.**

Subsection (3) of section 3 of the principal Act is amended by deleting the words “two years” and substituting therefor the words “a term in the range of two years to four years”.

**4. Insertion of new section 3A into principal Act.**

The principal Act is amended by inserting next after section 3 the following as section 3A —

**“3A. Importation of firearms and ammunition.**

- (1) Subject to subsection (3), no person shall import, cause to be imported or take any steps preparatory to importing any firearm or ammunition into The Bahamas except in pursuance of and in accordance with the provisions of this Act.
- (2) Any person who contravenes the provisions of subsection (1) commits an offence and is liable —
  - (a) on conviction on information to a term of imprisonment in the range of ten to fifteen years;
  - (b) on summary conviction to a term of imprisonment in the range of four to seven years,and in addition to such term of imprisonment, every such firearm or ammunition shall be forfeited to the Crown.
- (3) This section does not apply to the importation of revolvers which are provided for otherwise under this Act.”.

**5. Amendment to section 4 of the principal Act.**

Section 4 of the principal Act is amended by deleting the word “introduce” wherever it appears and substituting therefor the word “import”.

**6. Repeal and replacement of sections 5 of the principal Act.**

The principal Act is amended by deleting section 5 and substituting therefor the following —

**“5. Penalties for revolvers.**

Any person importing a revolver into The Bahamas or being found in possession of a revolver in contravention of this Part shall be liable —

- (a) on conviction on information to imprisonment for a term in the range of ten years to fifteen years;
  - (b) on summary conviction, to imprisonment for a term in the range of four years to seven years,
- and in addition to such term of imprisonment every such revolver shall be forfeited to the Crown:

Provided that where the court is satisfied that such person was the holder of a special licence issued under this Part and did not renew such licence during the period specified in the proviso to subsection (3) of section 4, or during the period of six months next following that period, the court may, in lieu of passing a sentence of imprisonment, impose on such person a fine not exceeding five thousand dollars.”.

**7. Amendment of section 6 of the principal Act.**

Section 6 of the principal Act is amended by deleting the words “during the period of three months following the arrival of such vessel at her first port of call on any visit to The Bahamas.”.

**8. Amendment of section 8 of the principal Act.**

Subsection (2) of section 8 of the principal Act is amended by deleting paragraph (a).

**9. Insertion of new section 8A into the principal Act.**

The principal Act is amended by inserting immediately after section 8, the following new section 8A —

**“8A. Occupier of house, building, premises, vehicle or vessel.**

- (1) The occupier of any house, building, or premises or the person who has control of any privately operated vehicle, aircraft or vessel in which a firearm is found shall, for the purposes of this Act be deemed to be in possession of such firearm unless the contrary is proved.
- (2) For the purposes of this section, “privately operated vehicle, aircraft or vessel” does not include a vehicle, aircraft or vessel that is operated as public transportation.”.

**10. Amendment of section 9 of the principal Act.**

Section 9 of the principal Act is amended by —

- (a) deleting subparagraphs (i) and (ii) of paragraph (2)(b) and substituting therefor the following —
  - “(i) on conviction on information, to imprisonment for a term being in the range of ten years to fifteen years;
  - (ii) on summary conviction, to imprisonment for a term in the range of four years to seven years.”;
- (b) by deleting from the proviso to subsection (2) the words one thousand”and substituting therefor the words “five thousand”.

**11. Insertion of new section 9A into the principal Act.**

The principal Act is amended by inserting immediately after section 9, the following new section 9A —

**“9A. Possession of firearm and ammunition with intent to supply.**

- (1) It is an offence for a person to have a firearm or ammunition in his possession with intent to supply it to another in contravention of the provisions of this Act.
- (2) A person who contravenes this section commits an offence and is liable —
  - (a) on conviction on information to a term of imprisonment in the range of ten years to fifteen years;
  - (b) on summary conviction to imprisonment to a term in the range of four years to seven years.
- (3) For the purposes of subsection (1), where a person is found in possession of two or more firearms or twenty-five or more rounds of ammunition without a firearm certificate, it shall be presumed, unless the contrary is proved, that he is in possession of the said firearm or said ammunition with intent to supply it to another person irrespective of whether that person is within The Bahamas or elsewhere.
- (4) For the purposes of this Act, “supply” includes sell, transfer or otherwise distribute.”.

**12. Amendment of section 13 of the principal Act.**

Section 13 of the principal Act is amended in subsection (3) by deleting the words “six months” and substituting therefor the words “a term in the range of five years to seven years”.

**13. Amendment of section 15 of the principal Act.**

Section 15 of the principal Act is amended —

- (a) by deleting paragraphs (a) and (b) of subsection (2) and substituting therefor the following —
  - “(a) on conviction on information, to imprisonment for a term being in the range of ten years to fifteen years;
  - (b) on summary conviction, to imprisonment for a term being in the range of four years to seven years.”;

- (b) in the proviso to subsection (2) by deleting the words "one thousand" and substituting therefor the words "five thousand".

**14. Amendment of section 22 of the principal Act.**

Section 22 of the principal Act is amended in subsection (2) by deleting the words "three months" and substituting therefor the words "a term in the range of five years to seven years".

**15. Amendment of section 23 of the principal Act.**

Section 23 of the principal Act is amended in subsection (8) by deleting the words "three months" and substituting therefor the words "a term in the range of five years to seven years".

**16. Amendment of section 25 of the principal Act.**

Section 25 of the principal Act is amended in subsection (5) by deleting the words "three months" and substituting therefor the words "a term in the range of five years to seven years".

**17. Amendment of section 26 of the principal Act.**

Section 26 of the principal Act is amended in subsection (5) by deleting the words "six months" and substituting therefor the words "a term in the range of five years to seven years".

**18. Amendment of section 28 of the principal Act.**

Section 28 of the principal Act is amended in subsection (4) by deleting the words "six months" and substituting therefor the words "a term in the range of five years to seven years".

**19. Amendment of section 29 of the principal Act.**

Section 29 of the principal Act is amended —

- (a) in subsection (2) by deleting the words "three months" and substituting therefor the words "a term in the range of five years to seven years";
- (b) in paragraph (3) by deleting the words "person of or over the age of twenty-one years and substituting therefor the words "a parent or guardian or a person over twenty-one years who has the permission of the said parent or guardian,".

**20. Amendment of section 30 of the principal Act.**

Section 30 of the principal Act is amended —

- (a) in subsection (1), by inserting next after paragraph (d) the following as the new paragraph (e) and re-lettering the remaining paragraph accordingly —

“(e) any rifle designed to discharge ammunition of 22 calibre and above except 22 long rifle calibre and 22 short calibre;”;

- (b) deleting subsection (2) and substituting therefor the following —

“(2) Where any person contravenes the provisions of subsection (1) he shall be liable —

- (a) on conviction on information to imprisonment for a term in the range of ten years to twenty-five years;
- (b) on summary conviction to imprisonment for a term in the range of four years to seven years.”.

**21. Amendment of section 31 of the principal Act.**

Section 31 of the principal Act is amended in subsection (2) by deleting the words “six months” and substituting therefor the words “a term in the range of five years to seven years”.

**22. Amendment of section 32 of the principal Act.**

Section 32 of the principal Act is amended in subsection (5) by deleting paragraphs (a) and (b) and substituting therefor the following —

“(a) on conviction on information, to imprisonment for a term in the range of ten years to fifteen years;

(b) on summary conviction, to imprisonment for a term in the range of four years to seven years.”.

**23. Amendment of section 33 of the principal Act.**

Section 33 of the principal Act is amended by deleting the words “fourteen years” and substituting therefor the words “a term in the range of fourteen years to twenty years”.

**24. Amendment of section 34 of the principal Act.**

Section 34 of the principal Act is amended in —

- (a) subsection (1) by deleting the words “not exceeding fourteen years” and substituting therefor the words “in the range of fourteen years to twenty years”;

- (b) subsection (4) by deleting the words “seven years” and substituting therefor the words “a term in the range of five years to seven years”.

**25. Amendment of section 35 of the principal Act.**

Section 35 of the principal Act is amended by deleting the words “not exceeding six years” and substituting therefor the words “in the range of five years to seven years”.

**26. Amendment of section 36 of the principal Act.**

Section 36 of the principal Act is amended —

- (a) in subsection (3) by —
  - (i) deleting the words “eighteen months” and substituting therefor the words “a term in the range of five years to seven years”;
  - (ii) deleting the words “six months” and substituting therefor the words “a term in the range of twelve months to three years”;
- (b) in subsection (4) by —
  - (i) deleting the words “of twenty years” and substituting therefor the words “in the range of fifteen years to twenty-five years”;
  - (ii) deleting the words “of five years” and substituting therefor the words “in the range of five years to seven years”.

**27. Amendment of section 37 of the principal Act.**

Section 37 of the principal Act is amended by deleting the words “twelve months” and substituting therefor the words “a term in the range of four years to seven years”.

**28. Insertion of new sections 37A and 37B into the principal Act.**

The principal Act is amended by inserting immediately after section 37 of the following new sections 37A and 37B —

**“37A. Conspiracy, attempt, aiding and abetting.**

- (1) Where two or more persons agree or act together with a common purpose in committing or abetting an offence under this Act whether with or without any previous concert or deliberation, each of them commits conspiracy to commit or abet that offence as the case may be, and shall be liable —
  - (a) on conviction on information to a term of imprisonment in the range of twenty years to twenty-five years;



- (b) on summary conviction to a term of imprisonment in the range of four years to seven years.
- (2) A person in the jurisdiction of the courts may be found guilty of conspiracy by agreeing with another person who is beyond the jurisdiction for the commission or abetment of any offence under this Act to be committed by them together or by either of them or by any other person, either within or beyond the jurisdiction.
- (3) For the purposes of subsection (2), with regard to the offence to be committed beyond the jurisdiction, "offence" means any act which, if done within the jurisdiction would be an offence under this Act.
- (4) Where any person commits an offence under this Act, or solicits or incites another person to commit such an offence, he shall, without prejudice to any other liability, be liable —
  - (a) on conviction on information to a term of imprisonment in the range of ten years to twenty years;
  - (b) on summary conviction to a term of imprisonment in the range of four years to seven years.
- (5) A person who in The Bahamas aids, abets, counsels or procures the commission in any place outside of The Bahamas of any offence punishable under the provisions of any corresponding law in force in that place or does any act preparatory to, or in furtherance of any act which, if committed in The Bahamas, would constitute an offence under this Act is liable —
  - (a) on conviction on information to a term of imprisonment in the range of ten years to twenty years;
  - (b) on summary conviction to a term of imprisonment in the range of four years to seven years.

**37B. Unauthorized possession of body armour.**

- (1) The Licensing Authority may, subject to such conditions as it thinks fit, give approval to a person or class of persons and may revoke an approval or vary the conditions of such approval.
- (2) A person who without the approval in writing of the Licensing Authority —

- (a) manufactures, sells, distributes, supplies or otherwise deals in body armour; or
- (b) has possession of or uses body armour, commits an offence and is liable on conviction on information to a term of imprisonment in the range of ten years to fifteen years.
- (3) In this section, "**body armour**" means a bulletproof vest, protective jacket or other article of apparel designed to resist the penetration of ammunition discharged from a firearm."

**29. Amendment of section 38 of the principal Act.**

Subsection (1) of section 38 of the principal Act is amended by deleting the words "may, if it thinks fit," and substituting therefor the words "shall, unless the court is satisfied that the person was, at the time of the commission of the offence, not the owner and not acting with the authority of the owner of such firearm or ammunition".

**30. Amendment of section 45 of the principal Act.**

Section 45 of the principal Act is amended by deleting the words "section 5, 9(2), 15, 30 or 36 undergoes" and substituting therefor the words "this Act".