

FIJI ISLANDS

ARMS AND AMMUNITION ACT 2003

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ACT NO. 11 OF 2003

I assent

[L.S.]

J.I. ULUIVUDA

President

[26 August 2003]

AN ACT

**TO REGULATE AND CONTROL THE MANUFACTURE, IMPORTATION,
EXPORTATION, SALE, POSSESSION, USE AND STORAGE OF ARMS AND
AMMUNITION AND FOR RELATED MATTERS**

ENACTED by the Parliament of the Fiji Islands

PART 1 PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Arms and Ammunition Act 2003.
- (2) This Act comes into force on a date or dates appointed by the Minister by notice in the *Gazette*.

Interpretation

2. (1) In this Act, unless the context otherwise requires-

"accessory" includes a magazine, sighting system, sling, weapon bag or case, weapon cleaning kit, ammunition belt, wooden stock for butt or fore or any component or part of any arms that does not affect the normal discharge of the arms;

"ammunition" (a) means live ammunition for any arms;

(b) and includes a missile, cartridge, cartridge case or anything designed or adapted for or capable of use with any arms, or designed or adapted to contain any noxious liquid, gas or other thing, and any military ordnance, grenade, mortar, rocket, naval shell, field gun ammunition, paint ball gun ammunition or charge used in explosive-operated power tools;

(c) but does not include a spear discharge from any arms solely for the purpose of killing fish;

"arms" (a) means

- (i) any lethal weapon with or without barrel of any description from which any shot, bullet or other missile can be discharged or which can be adapted for the discharge of any such shot, bullet or other

missile; and

- (ii) any weapon of any description designed or adapted for the discharge of any noxious liquid, gas or other thing dangerous to persons;

(b) and includes any component part of any weapon mentioned in paragraph (a)(i) or (ii), any accessory to any such weapon designed or adapted to diminish the noise or flash caused by firing the weapon and any explosive-operated power tool, ramset, hilt or fire nail fastener operated by pneumatic pressure;

(c) but does not include an article designed or adapted solely to discharge a spear for spearing fish;

"arms identification card" means a card issued under section 7(3);

"arms licence" means a licence issued under section 6;

"authorised officer" means a police officer authorised in writing by the Commissioner for the purposes of this Act;

"carry" in relation to any arms or ammunition, means to be in physical possession of it;

"Commissioner" means the Commissioner of Police appointed under section 146 of the Constitution;

"dealers licence" means an arms dealers licence issued under section 10;

"imitation arms" means anything that has the appearance of any arms, whether or not capable of discharging a shot, bullet or other missile;

"import licence" means a licence issued under section 16;

"interim import licence" means an interim import licence issued under section 17;

"licence" means a licence of any description issued under this Act;

"licensed arms dealer" means the holder of a valid licence to deal in and repair arms or explosive-operated power tools or to deal in and store arms and ammunition issued under this Act;

"missile" includes a shell, bullet, shot, dart or any other similar thing;

"permit to purchase" means a permit issued under section 15;

"police station" includes a police post;

"pistol" means any arms or other weapon of any description from which any shot, bullet or other missile can be discharged and of which the length of barrel (not including any revolving, detachable or magazine breech) does not exceed 9 inches (22cm);

"prohibited area" means a prohibited area declared under section 26;

"repealed Act" means the Arms and Ammunition Act (Cap. 188);

"use" in relation to arms or ammunition, means to use any arms or ammunition or hold any arms so as to cause a reasonable belief that it will be fired, whether or not it is capable of being fired.

(2) For the purpose of this Act, a person is in possession of any arms and ammunition-

(a) if the person has custody or control of the arms or ammunition;

(b) if the arms or ammunition is in the custody or control of some other person over whom the person exercises authority;

(c) if the arms or ammunition is in or on any premises, place, vehicle, vessel or aircraft, whether or not belonging to the person, in such a way that the person can readily have access to it or obtain physical control of it.

Part 2 - MANUFACTURE OF ARMS AND AMMUNITION

Prohibition on the manufacture of arms or ammunition

3. (1) A person who manufactures any arms or ammunition except at an approved arsenal under a licence to manufacture arms or ammunition commits an offence.

(2) Any person may, on the prescribed form and accompanied by the prescribed fee, apply to the Minister-

(a) for a licence to manufacture arms or ammunition (licence to manufacture); and

(b) for an approval of premises for the manufacture of arms or ammunition (approved arsenal)

(3) The Minister may, with the approval of the Cabinet-

(a) grant or refuse to grant a licence to manufacture with or without conditions; and

(b) approve or refuse to approve arsenal with or without conditions.

(4) In granting an approval under subsection (3), the Cabinet Must take into account the following-

- (a) the suitability of the applicant to hold a licence;
- (b) the suitability of the premises as an arsenal site; and
- (c) any other prescribed requirements or conditions.

including the views of the Commissioner of Police and the Commander of the Republic of Fiji Military Forces and any other interested person.

(5) A holder of a licence to manufacture must comply with any written guidelines for the manufacture of arms and ammunitions issued by the Minister after consulting the Minister responsible for Trade, and any failure to comply with the guideline is a ground for cancellation of the licence.

(6) In this section, manufacture, in relation to arms, does not include-

- (a) repair of arms;
- (b) converting into any arms of anything which has the appearance of any arms but which is so constructed as to be incapable of discharging any missile through the barrel of the arms; or
- (c) alteration, substitution or replacement of any component part of any arms.

Part 3 - POSSESSION, USE OR CARRIAGE OF ARMS OR AMMUNITION

Possession of arms or ammunition prohibited except under licence

4. A person who possesses, uses or carries any arms or ammunition without an arms licence in respect of the arms or ammunition and in accordance with the conditions of the licence imposed under this Act commits an offence.

Exemption from arms licences

5. (1) The following are exempted from the operation of section 4

- (a) carriers and their employees, authorised in writing by the Commissioner, having in their possession in the ordinary course of business of the carriers and not for use arms or ammunition for which a licence has been issued and is in force in respect of such arms or ammunition only;

(b) a member of a rifle club or association or a miniature rifle club or association approved by the Minister in respect of any arms or ammunition used by the member solely for the lawful purposes of the club or association;

(c) the President as the Commander-in-Chief;

(d) a member of the Republic of Fiji Military Forces or any foreign armed forces lawfully in the Fiji Islands, the Fiji Police Force (including the special constabulary) or the Fiji Prison Service in respect of any arms or ammunition possessed, used or carried in the course of his or her lawful duty;

(e) the crew and passengers of any vessel or aircraft, other than a vessel or aircraft solely engaged in carrying goods or passengers within the Fiji Islands in respect of arms or ammunition which are part of the ordinary armament of the vessel or aircraft, or which are in or upon the vessel or aircraft and required for the service of it or kept for or on behalf of the crew or passenger;

(f) any public officer or class of public officers exempted by the Minister by notice in the *Gazette* in respect of the arms or ammunition specified in the exemption;

(g) a licensed arms dealer or manufacturer and his or her employees in respect of arms or ammunition in their possession in the ordinary course of business of a licensed arms dealer or manufacturer

(h) any member of a theatrical or circus company while under interim import licence in respect of arms or ammunition used in the theatrical performance.

(2) A person exempted under subsection (1)(b), (c), (d), (f) and (g) must-

(a) be issued with a certificate of exemption by the Commissioner in the prescribed form; and

(b) provide, annually in writing to the Commissioner, particulars of any arms in his or her possession in respect of which no licence is in force, with the name of the maker of the arms and any number or marked on the arms for purposes of identification.

(3) A person exempted under subsection (1)(e) must, after declaring the arms or ammunition with a Customs Officer

(a) deliver such arms or ammunition to the Customs Officer who must hand such arms or ammunition to a police officer for storage at the nearest police station until the vessel or aircraft leaves the Fiji Islands; or

(b) store the arms or ammunition on the vessel or aircraft in accordance with any conditions imposed by the Commissioner.

(4) A person who contravenes subsection (3) commits an offence.

Issue and renewal of arms licences

6. (1) A person may, in the prescribed form and accompanied by the prescribed fee, apply for an arms licence to the Commissioner through an authorised officer.

(2) The Commissioner may grant or refuse to grant an application for any arms licence.

(3) The Commissioner must, in person, sign an arms licence granted under this section.

(4) An arms licence must be granted only to a natural person.

(5) An arms licence must not be granted to a person unless the person has a certificate from the authorised officer through which it is made stating that the person-

(a) is competent to handle, use, store, possess and control arms and ammunition; and

(b) has passed a practical and written examination approved by the Commissioner and conducted by an authorised officer relating to the handling, use, storage, possession and control of arms and ammunition, including knowledge of the relevant provisions of this Act and the regulations.

(6) On an application for any arms licence-

(a) by a person who has not previously held an arms licence under this Act or the repealed Act; or

(b) in respect of any arms which has not previously been licensed in the Fiji Islands,

the licence must not be issued unless the arms has been first produced for inspection by the authorised officer who received application and the officer has certified the inspection of the arms to the Commissioner.

(7) An arms licence expires on 31st December next following the date of issue.

(8) When any arms licence is granted by the Commissioner, an authorised officer of the police station nearest to where the holder of the licence resides must enter the particulars of the licence in a register kept at the police station.

(9) It is a condition of every arms licence-

(a) that a photograph of the person named in the licence is kept attached to the arms licence; and

(b) that the person named in it carries the licence whenever carrying the arms to which it relates.

(10) An arms licence may be renewed by the Commissioner on an application made through an authorised officer by the holder of the licence in the prescribed form and accompanied by the prescribed fee.

(11) A renewed licence is subject to the other provisions of this section as if it were a new licence.

(12) The Minister may, by order in the Gazette, limit the number of arms licences that may be granted for a period or be issued in respect of an area or locality.

Marking of arms and identification cards

7. (1) If an application is made for any arms licence for any arms not marked with letters or figures or in some other manner by which it can be readily identified, the authorised officer through whom the application is made may, before the licence is issued, cause the arms to be marked with some permanent mark by which it can be known and identified, but in such a manner, as far as possible, as not to damage or disfigure the arms.

(2) A person who-

(a) wilfully, obliterates, defaces, alters, counterfeits or forges any mark placed on the arms pursuant to subsection (1);

(b) fraudulently marks any arms with a mark resembling or intended to resemble any mark used for marking arms under this section; or

(c) wilfully, obliterates, defaces, alters, counterfeits or forges a manufacturer's serial number on any arms,

commits an offence.

(3) Every holder of any arms licence must be issued by an authorised officer with any arms identification card containing information as to the identity of the arms as approved by the Commissioner.

(4) An identification card issued under subsection (3) is valid for 10 years but must be endorsed annually upon renewal of the arms licence.

Lost arms licences

8. If an arms licence or an arms identification card is destroyed, defaced or lost, the person named in it may, on application to an authorised officer and on satisfying the officer that the application is made in good faith, obtain a new licence or card on payment of the prescribed fee.

Arms or ammunition lost or destroyed

9. (1) If any arms or ammunition in respect of which an arms licence is in force is lost or destroyed, the person named in the licence or any other person who was in possession of the arms or ammunition immediately before the loss or destruction must, when becoming aware of the loss or destruction, report it to the police station nearest to the place where the person normally resides.

(2) A person who contravenes subsection (1) commits an offence.

Part 4 - DEALING IN ARMS OR AMMUNITION

Dealers licences

10. (1) A person who by way of trade or business, other than a licensed arms dealer or the dealers employees in the ordinary course of business of a licensed arms dealer,-

(a) stores, assembles or disassembles, cleans, repairs, tests or proves any arms or ammunition;

(b) manufactures any component part of any arms or ammunition;

(c) sells, disposes of or exposes for sale any arms or ammunition; or

(d) keeps or has in his or her possession any arms or ammunition for any of the purposes mentioned in paragraph (a), (b) or (c),

commits an offence.

(2) A person may, in the prescribed form and accompanied by the prescribed fee, apply to the Commissioner for a dealers licence to carry on business as an arms dealer, and the licence must specify every such place of business.

(3) A person applying for a dealers licence must provide particulars of every place at which the dealer proposes to carry on business as an arms dealer.

(4) The Commissioner must not issue a dealers licence unless the Commissioner is satisfied that-

(a) the applicant has adequate facilities and sufficient qualified employees to

clean, repair, test, store and prove arms and ammunition;

(b) the place is a place at which a person can be permitted to carry on business as an arms dealer without danger to the public safety or the peace;

(c) adequate provisions exist at such place of business for the security of arms or ammunition; and

(d) any other prescribed requirements or conditions are complied with.

(5) A dealers licence expires on 31st December next following the date of issue.

(6) A licensed arms dealer must keep and maintain books containing accurate records of-

(a) all arms or ammunition imported or received by the dealer in the course of business;

(b) all arms or ammunition sold by the dealer;

(c) the marks by which all arms so sold can be identified with the date of sale and the name and address of the purchaser;

and must on demand produce the records for inspection by any authorised officer at any place and reasonable time the officer requires.

(7) A licensed arms dealer or the dealers employee or agent must not-

(a) sell or dispose of any arms or ammunition to a person; or

(b) repair any arms or ammunition for any person,

unless the person is the holder of a valid arms licence and arms identification card.

(8) The particulars of any ammunition sold or disposed of to a person by a dealer or a dealers employee must be endorsed upon the arms licence of the person by the dealer or the dealers employee.

(9) Every licensed arms dealer must, not later than 7 days after the start of each month, provide the Commissioner particulars in the prescribed form of-

(a) the dealers stock-in-trade;

(b) all arms and ammunition imported or received by the dealer in the course of business during the month.

(c) all arms and ammunition exported or sold by the dealer during the preceding

month, with the name of purchasers.

(10) A person who contravenes subsection (6), (7), (8) or (9) commits an offence.

(11) A person who carries on business as an arms dealer at a place in respect of which a dealers licence has not been granted commits an offence.

Inspection of stock-in-trade

11. (1) A licensed arms dealer must, if requested by an authorised officer, at any reasonable time, allow the dealers stock-in-trade to be inspected by the officer.

(2) A dealer who-

(a) fails to allow an authorised officer to inspect the stock-in-trade;

(b) obstructs an authorised officer in performing the duties under this section; or

(c) in response to a request made under subsection (1), intentionally conceals the dealers stock-in-trade to be inspected by the officer,

commits an offence.

Boards to be attached at dealers business place

12. (1) A licensed arms dealer must attach in a conspicuous position outside the door of the place of business a board bearing the words Licensed to Deal in Arms and Ammunition distinctly printed in letters not less than 2 inches (5 cm) high.

(2) A person who contravenes subsection (1) commits an offence.

Storage and safe custody of arms and ammunition

13. (1) A dealers licence must not be issued unless the applicant has obtained a written confirmation from the Inspector of Mines that the premises and facilities proposed to be used by the applicant for the storage of arms and ammunition are suitable for that purpose.

(2) The premises or the facilities used for the storage of arms or ammunition must-

(a) be properly maintained;

(b) be secured to the satisfaction of the Commissioner;

(c) have only one means of entry provided with 2 locks of which the master keys must be delivered to, and retained by, the police officer in charge of the police

station nearest to the premises or the facility;

(d) be to the satisfaction of the Inspector of Mines; and

(e) comply with any other prescribed requirements or conditions.

(3) A person who contravenes subsection (2) commits an offence.

Shortening arms and converting imitation arms into arms

14. A person who

(a) shortens or authorises the shortening of the barrel of any arms to a length less than 24 inches (61mm);

(b) not being licensed arms dealer or an employee of a licensed arms dealer in the ordinary course of business of a licensed arms dealer - converts into any arms anything that, though having the appearance of being any arms, is constructed to be incapable of discharging any missile through its barrel; or

(c) buys or has in his or her possession of the barrel of any arms of which has been shortened to less than 24 inches (61mm) or which has been converted as set out in paragraph (b),

commits an offence.

Part 5 PURCHASE, SALE, ACQUISITION, IMPORTATION AND EXPORTATION OF ARMS OR AMMUNITION

Purchase, sale or acquisition of arms or ammunition

15. (1) If the Commissioner grants an application for any arms licence, the Commissioner must, in the prescribed form and accompanied by the prescribed fee, first issue a permit up to 6 months authorising the applicant for the arms licence to purchase or acquire any arms or ammunition.

(2) A person who purchases or acquires any arms or ammunition a permit issued under subsection (1) must

(a) endorse the permit with the date of receipt of the arms or ammunition; and

(b) within 7 days after purchasing or acquiring any arms but before the expiry of the permit to purchase, produce the arms at the police station nearest to where the holder of the permit resides so that-

(i) the arms can be inspected in accordance with section 6(6); and

(ii) an arms licence can be issued under section 6.

(3) If a seller or a previous owner of any arms or ammunition which is sold or disposed of under a permit to purchase is a licensed arms dealer, the dealer must add to the record of sales kept by the dealer under section 10(6) a record of the number, date and other particulars contained in or endorsed upon the licence.

(4) A person who contravenes subsection (2) or (3) commits an offence.

(5) A person, other than a licensed arms dealer, who receives any arms or ammunition by way of purchase or any other means when not the holder of a permit to purchase or of any arms licence or not exempted under section 5 in respect of that arms or ammunition commits an offence.

(6) A person who delivers any arms or ammunition, by way of sale or otherwise, to another person, other than a licensed arms dealer, who is not the holder of a permit to purchase any arms licence or exempted under section 5 in respect of that arms or ammunition commits an offence.

Import licences

16. (1) Subject to section 27, a person who imports any arms or ammunition or any part of any arms or ammunition into the Fiji Islands without an import licence commits an offence.

(2) A person may, in the prescribed form and accompanied by the prescribed fee, apply to the Commissioner for an import licence.

(3) The Commissioner may waive the payment of a fee for an import licence.

(4) The Minister may, with the approval of Cabinet, issue or refuse to issue an import licence to an applicant mentioned in subsection (2).

(5) The holder of an import licence must-

(a) endorse on the licence particulars of every arms or ammunition or parts of ammunition imported under the authority of the licence; and

(b) return the licence to the police officer-in-charge of the police station nearest to where the holder of the licence resides within 3 days from the expiration of the term specified in the import licence.

(6) The Minister may, in writing, delegate to the Commissioner the power to issue an import licence for arms for personal use and ammunition for such arms (including an interim import licence).

(7) A person who contravenes subsection (5) commits an offence.

Interim Import licence

17. (1) Subject to section 27, a person arriving in the Fiji Islands for a temporary stay who carries arms and ammunition for personal use may-

(a) deposit the arms and ammunition with a senior officer of Fiji Islands Customs Service, or the officer-in-charge of the police station, at or nearest to the port of entry; or

(b) in the prescribed form and accompanied by the prescribed fee, apply to an authorised officer for an interim import licence for the arms and ammunition.

(2) A person who fails to obtain an interim import permit licence for any arms and ammunition imported under subsection (1) commits an offence.

(3) No person may import more than 2 arms, and the ammunition for such arms, under subsection (1).

(4) An interim licence remains in force for 14 days from the date of issue and may be renewed by an authorised officer.

(5) An interim import licence may be issued with or without payment of the prescribed fee to a theatrical or circus company, which is in the Fiji Islands for a temporary stay in respect of arms and ammunition to be used in the company's performances, and remains in force until the arms and ammunition are re-exported.

PROVIDED that the arms and ammunition imported under such interim import licences must be produced with the licence to the police officer-in-charge of the Division in which the company will perform, for endorsement by the officer.

(6) If arms and ammunition are left with the Fiji Islands Customs Service or at a police armoury subsection (1) the arms and ammunition must, at the written request of the traveller to the Comptroller of Customs and Excise or the Commissioner and on payment of the prescribed fee, be transported by a police officer from the port or airport where they were imported to any other port of first entry or customs airport in the Fiji Islands within 24 hours of the request.

Arms and ammunition sent by post

18. (1) Subject to section 27, no arms or ammunition sent through the post into the Fiji Islands must be delivered to the consignee unless an import licence for the arms or ammunition is produced by the consignee at the post office of delivery.

(2) A person who contravenes subsection (1) commits an offence.

Export licences

19. (1) A person who exports any arms or ammunition without a licence commits an offence.

(2) A person may, in the prescribed form and accompanied by the prescribed fee, apply to the Minister for an export licence.

(3) The Minister, with the approval of the Cabinet, may grant or refuse an application for an export licence, but no approval may be given unless the arms and ammunition have been in the Fiji Islands for at least 12 months.

(4) An export licence for arms for personal use and the ammunition for such arms does not require the approval of Cabinet.

(5) The Minister may, in writing, delegate to the Commissioner the power to issue an export licence for arms for personal use and ammunition for such arms.

Ports and places of import and export

20. (1) The Minister may, by order in the *Gazette*, declare that arms and ammunition, or a particular class of arms and ammunition, must not be imported into the Fiji Islands for the purpose of being exported to another country except at a port or place specified in the order.

(2) A person who contravenes an order under subsection (1) commits an offence.

Declaration of arms and ammunition on importation

21. (1) A person entering or departing the Fiji Islands who has in his or her possession or among his or her baggage any arms or ammunition must-

(a) declare it to a customs officer on arrival or departure; and

(b) produce an import or export licence to the customs officer.

(2) A consignee receiving any imported arms or ammunition must be in possession of an import licence before receiving the arms or ammunition.

(3) A person who contravenes subsection (1) or (2) commits an offence, in addition to any other penalty under the Customs laws.

Arms and ammunition in transit

22. (1) The Minister may, upon application in the prescribed form and accompanied by the prescribed fee, grant, with or without conditions, a transit permit for the importation, storage, transportation and exportation of any arms or ammunition which is in transit through to any place outside the Fiji Islands.

(2) The importation, storage, transportation and exportation of any such arms or ammunition under a transit permit does not constitute an offence under this Act.

Concealing and trafficking arms and ammunition

23. (1) A person who, without a relevant licence, conceals from lawful inspection any arms or ammunition imported or intended to be exported commits an offence.

(2) A person, other than a licensed or exempted person, who traffics arms commits an offence.

(3) A person traffics arms if the person

(a) imports or exports more than 3 arms with or without their ammunitions at the same time; or

(b) imports or exports arms with or without their ammunitions more than 3 times in a month.

Minister may prohibit importation or exportation

24. (1) The Minister may, after consultation with the Commissioner, prohibit, by order in the *Gazette*, for a period specified in the order the importation from or the exportation to a place specified in the order of any arms or ammunition or parts of arms or ammunition specified in the order except with a special licence issued by the Minister and the special licence may be issued with or without condition.

(2) A person who takes or sends an article containing arms or ammunition out of the Fiji Islands intending the article to reach a particular place either directly or indirectly is deemed to export the article to that place for the purposes of this section.

(3) A person who imports or exports any arms or ammunition or parts of arms or ammunition in contravention of an order under this section, or in breach of the conditions of any special licence issued under this section commits an offence.

Ships or aircraft used for illegal importation or exportation

25. (1) If a ship or aircraft is used-

(a) to import or export any arms or ammunition or parts of arms or ammunition in contravention of order made under section 24;

(b) to receive or store any arms or ammunition or parts of any arms or ammunition imported in contravention of any such order,

the owner and owners agent of the ship or aircraft and the master of the ship or the commander of the aircraft, as the case may be, each commits an offence.

(2) It is a defence under this section if the owners agent, master or commander proves

(a) that the owner, owners agent, master or commander was not implicated in the placing of the arms or ammunition or parts of arms or ammunition on board the ship or aircraft; and

(b) that the offence in question was committed without the knowledge, consent or connivance of the owner, owners agent, master or commander,

(3) The court may order a ship or aircraft used in the commission of an offence under subsection (1)-

(a) be detained until security is paid to the court for a sum of not less than the maximum fine specified for the offence; or

(b) be forfeited to the State.

(4) The finding of any arms or ammunition or part of any arms or ammunition on board any ship or aircraft which is subject to an order under this section is *prima facie* evidence that the ship or aircraft has been used for the importation or exportation of arms or ammunition or parts of arms or ammunition contrary to this Act, or for the receiving or storing of arms or ammunition or parts of arms or ammunition so imported.

(5) For the purposes of this section-

(a) master in respect of a ship, means the person (other than a marine pilot) who is in command or in charge of a ship;

(b) commander in respect of an aircraft means the captain or pilot;

(c) owners agent means the person in the Fiji Islands who or which acts as commercial agent for the owner of a ship or aircraft.

Part 6 - ENFORCEMENT

Prohibition of arms in certain areas

26. (1) If the Minister thinks it expedient on account of the prevalence of crimes, in any area or place, involve the use of arms in any area or place the Minister may, by order in

the *Gazette* and after consulting the Commissioner-

- (a) prohibit the possession, use or carrying of arms and ammunition in the area or place subject to any conditions or exceptions;
 - (b) direct that arms and ammunition within the area or place be voluntarily delivered, to a police station within a specified period;
 - (c) authorise a police officer to seize any arms and ammunition not voluntarily delivered to a police station; and
 - (d) in special circumstances and subject to conditions, authorise the Commissioner to release arms and ammunition that are surrendered under the order.
- (2) A person who fails to comply with an order made under subsection (1) commits an offence.
- (3) Any arms or ammunition delivered or seized under subsection (1) must-
- (a) be detained until the order expires; and
 - (b) when the order expires, be released to the owner on production of an arms licence relating to the arms and ammunition.

Prohibition of certain arms

27. (1) Any arms, which is designed or adapted so 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, is prohibited from being imported into or manufactured in the Fiji Islands.

(2) A person who imports or manufactures any arms prohibited under this section commits an offence.

(3) In this section, "manufacture" includes to alter, modify, temper or adapt any arms so 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.

(4) The Minister may, by order, in the *Gazette*, declare any other types of arms and ammunition for the purposes of this section.

Pawning, etc of arms or ammunition

28. A person who-

(a) pawns, pledges or offers as a security any arms or ammunition; or

(b) sells any arms or ammunition by auction,

commits an offence.

Carrying arms or ammunition with intent to commit offence, etc

29. (1) A person who has on him or her any arms or imitation arms with intent to commit an offence or to resist arrest or to prevent the arrest of another person commits an offence.

(2) In any proceedings for an offence under this section, proof that the accused was carrying any arms or imitation arms and intended to commit an offence or to resist arrest is evidence that the accused intended to use the arms or imitation arms to commit an offence, or to resist arrest.

Carrying arms in a public place

30. (1) A person (including a licensed or exempted person) who, without lawful excuse, carries in a public place any arms commits an offence.

(2) For the purposes of this section, any arms is deemed to be loaded if there is ammunition in the chamber or barrel or in any magazine or other device which is in such a position that the ammunition can be fed into the chamber or barrel by the manual or automatic operation of some part of the gun or weapon.

Trespassing with arms in building

31. A person who, while carrying an imitation arms, enters or is in a building or a veranda or passage of a building, or any yard, garden or other land to or within the curtilage of a building and without lawful excuse, which the person must prove, commits an offence.

Persons conveying arms or ammunition may be apprehended without warrant

32. (1) A person may, without warrant, arrest and detain in custody a person found carrying or conveying any arms or ammunition in such a manner or circumstance as to provide reasonable grounds for suspicion that it might be used for any unlawful purpose dangerous to the public peace.

(2) If a person is arrested under subsection (1) by another person other than a police officer, the person arrested must forthwith be taken to a police station or handed over to a police officer.

Power to stop and search for arms and ammunition in public places

33. A police officer may stop and search a person for arms or ammunition if-

(a) the police officer finds the person in a street or other public place at any hour of the day or night and the police officer reasonably suspects that the person may be carrying arms and is acting in a suspicious manner; or

(b) the police officer reasonably suspects that the person is in possession of any arms or ammunition.

Persons arrested to be taken before a magistrate

34. A person arrested under this Act must, together with any arms or ammunition in respect of which an offence may have been committed or attempted to be committed, be taken before a magistrate no later than 48 hours after the time of arrest or, if that is not reasonably possible, as soon as possible thereafter.

Entry into place where there are arms and ammunition

35. A police officer may, without warrant, enter and remain on any land or premises, other than a dwelling house, at a reasonable time to enable the officer to ascertain whether a person who is in possession of any arms or ammunition on such land or premises has any licence or other lawful authority for the possession of the arms or ammunition.

Search for arms and ammunition on ships and aircraft

36. (1) If-

(a) a ship or aircraft is suspected of having on board any arms or ammunition imported or exported contrary to section 25 and which is not exempted under this Act; or

(b) a ship or aircraft about to leave the Fiji Islands bound for any place outside the Fiji Islands is suspected of having on board any arms or ammunition which is prohibited from being exported under section 25 and which is not exempted under this Act,

the Comptroller of Customs, a magistrate or a justice of the peace may issue a search warrant directed to a customs officer or police officer.

(2) A person to whom a warrant under subsection (1) is directed may-

(a) board and search a ship or aircraft named or described in the warrant with or without assistance;

(b) forcibly enter and search any part of the ship or aircraft; and

(c) arrest any person reasonably suspected of having committed an offence under this Act.

(3) If upon a search made under this section any arms or ammunition imported or exported which is prohibited under section 24 and which is not exempted under this Act is found on board a ship or aircraft, it is presumed, unless the contrary is proved, that there was an attempt to import or export the arms or ammunition contrary to this Act, the ship or aircraft may be detained for the purpose of removing any arms or ammunition from it to a police armoury.

Security of arms and ammunition

37. (1) A person who is in possession of any arms or ammunition must-

(a) keep it at all times securely and in safe custody and in serviceable and safe condition; and

(b) take all reasonable precautions to ensure that the arms or ammunition is not lost or stolen and is at any time not available to a person not lawfully entitled to use or possess it.

(2) A person who contravenes subsection (1) commits an offence.

Search for arms or ammunitions under warrant by court

38. (1) If a police officer has reason to believe that a person has possession any arms or ammunition-

(a) without a licence;

(b) in contravention of any condition of a licence or permit;

(c) for any unlawful purpose; or

(d) the person cannot be left in possession of the arms or ammunition without danger to the public peace;

the police officer may apply to a magistrate or a justice of the peace to issue a warrant directed to any police officer authorising the police officer-

(i) to enter and search the house or premises or any other property (including vehicles, vessels or aircraft) owned or occupied by the person or any house or premises any other property (including vehicles, vessels or aircraft) in which the officer has reason to believe that the arms or

ammunition may be found;

- (ii) to seize and take before a court the arms or ammunition; and
- (iii) to arrest any person found in the house or on the premises or any other property (including vehicles, vessels or aircraft) whom the police officer reasonably suspects has committed an offence under this Act.

(2) A person in possession of the premises to which the warrant relates must assist the officer executing the warrant.

(3) A person who during a search made under this section-

- (a) intentionally conceals any arms or ammunition;
- (b) knowing where any arms or ammunition is concealed, refuses to produce it or to reveal it to the officer making the search,

commits an offence.

Detention of arms or ammunition by the police

39. (1) Any arms or ammunition produced to a police officer under section 6(6) or section 11(1) or under a condition of a licence may be detained at a police armoury for a period of up to 30 days if the Commissioner so directs for reasons of public safety, or for other good cause, which the Commissioner must record in writing.

(2) No arms or ammunition may be detained under this section unless the Minister, for good cause, directs in writing that the arms or ammunition be detained.

(3) The Minister may, in writing, extend the 30 days specified in subsection (1) up to 90 days.

Disposal of detained arms and ammunition

40. Any arms and ammunition detained by the police under section 26(3) or section 39 must, at the expiry of the period of detention, unless previously brought before a court, be returned to the person lawfully authorised to receive the arms or ammunition or, if there is no such person, be disposed of in the prescribed manner.

Deposit of arms and ammunition at police station

41. (1) A person whose possession of any arms or ammunition has become unlawful upon the expiry, suspension or cancellation of a licence must forthwith surrender the arms or ammunition at a police station.

(2) If-

(a) any arms or ammunition has been deposited at a police station under subsection (1); and

(b) no licence authorising a person to possess the arms or ammunition is produced within 6 months of the deposit,

the arms or ammunition may be sold, disposed of or destroyed by the officer-in-charge of the police station with the written approval of the Commissioner.

(3) If any arms or ammunition is sold under subsection (2), the owner must receive the proceeds of the sale less any expenses incurred.

(4) If a person licensed to possess any arms or ammunition under this Act leaves the Fiji Islands for more than 7 days, the person must deposit the arms or ammunition at the nearest police station unless the arms or ammunition is exported at the same time.

(5) A person who contravenes subsection (1) or (4) commits an offence.

(6) It is a defence for a person charged with unlawful possession, use or carrying of any arms or ammunition to prove-

(a) that the person carried or was in possession of the arms or ammunition with the intention of depositing it or producing it for inspection at a police station;

(b) that the person acted reasonably and without unreasonable delay in all the circumstances of the case; and

(c) that-

(i) a licence to possess, use or carry the arms or ammunition or to import the arms or ammunition was in force up to 7 days before the date of the alleged offence; or

(ii) if a licence was not in force, it was not through the default of the person.

Presumptions of possession

42. (1) The occupier or person in possession or control of any premises in which any arms or ammunition is found is deemed, unless the contrary is proved, to be in possession of the arms or ammunition for the purposes of this Act.

(2) A person who is in possession or control of vehicle, ships, aircraft item, article or any other thing containing any arms or ammunition is presumed to be in possession of the

arms or ammunition, unless the person proves to the contrary.

Rewards to informers

43. If a person is convicted for an offence under this Act, the court may order that a sum not exceeding one-half of any fine imposed by the court on the conviction of the offender be paid to the person whose information or evidence was used to convict the offender.

Seizures and forfeitures

44. A police officer or Customs Officer may seize any arms or ammunition (including any receptacle to carry the arms or ammunition) which is the subject of a prosecution for an offence under this Act or the regulations or for a breach of a condition of any licence or permit issued under this Act, and the court may, upon conviction of the offender, order that the arms or ammunition be forfeited to the State.

Jurisdiction of magistrates

45. For the purposes of sentencing under this Act and notwithstanding section 7 of the Criminal Procedure Code, the powers of a Resident Magistrate are increased to permit the imposition of the maximum fines or imprisonment set out for respective offences in the Schedule.

Part 7-MISCELLANEOUS

Power to grant amnesty

46. (1) The Minister may, by regulations, declare amnesty period, not exceeding 30 days, under which persons may voluntarily surrender or disclose the location of any arms or ammunition to a police officer or other person at a specified place without criminal responsibility for illegal possession, custody or control of the arms or ammunition.

(2) Regulations under subsection (1) may-

- (a) prohibit the disclosure of the identity of a person who has been granted amnesty;
- (b) prohibit the use of knowledge about any person claiming amnesty to that persons disadvantage; and
- (c) provide for the destruction of records relating to the disclosure of arms or ammunition within 30 days from the expiry of the amnesty period, except for statistics as to the number and types of items surrendered.

Power to exempt

47. (1) The Minister may, with the approval of the Cabinet, exempt, by order in the *Gazette*, any arms or ammunition or class of arms or ammunition in any area or place from the operation of any or all the provisions of this Act.

(2) Subsection (1) is in addition to the power under section 5(1)(f).

Licence may be refused

48. (1) The Minister or Commissioner may refuse an application for issue or renewal of a licence with or without giving reasons and may cancel or suspend the licence on any of the following grounds-

- (a) for reasons of public order or safety, which the Minister or Commissioner must record;
- (b) if the applicant or licensee has been convicted of an offence under this Act or a serious offence under the Penal Code;
- (c) the applicant or licensee is certified by a medical practitioner to be of unsound mind;
- (d) on breach of a condition of a licence; or
- (e) on other prescribed grounds.

(2) No licence under this Act must be issued to any person under 21 years.

(3) The Minister or Commissioner may refuse to give reasons on the grounds of national security.

Licensee under disability

49. (1) If a person licensed to deal in arms or ammunition or to import arms or ammunition dies or becomes insolvent or bankrupt or mentally incapacitated-

- (a) any other person carrying on the business of the licensee may continue to operate the business under the licence up to 3 months to allow application for a new licence; and
- (b) that other person is deemed to be the holder of the licence for the purpose of this Act and has the same rights and liabilities as the original holder until a new licence is granted or refused or the licence expires, whichever is earlier.

(2) The Minister may extend the 3 months period specified under subsection (1)(a).

Liability of employers and employees

50. (1) A person licensed under this Act is liable for any act, omission, neglect or default of any agent or employee if the act, omission, neglect or default is committed by the agent or employee in the course of the agency or employment.

(2) An agent or employee of a person licensed under this Act is also personally liable for any act, omission, neglect or default in the course of the agency or employment.

Regulations

51. (1) The Minister may make regulations to give effect to the provisions of this Act and in particular-

(a) to regulate the procedures for licences;

(b) to prescribe the forms and fees for the purposes of this Act;

(c) to provide for the marking of arms licensed under Part 3;

(d) to prescribe other requirements or conditions for licences and the grounds for suspension or cancellations of licences;

(e) to provide giving of information for arms and ammunition by persons in possession of arms and ammunition;

(f) to regulate the disposal or destruction of arms and ammunition;

(g) to regulate competency tests and assessments;

(h) to regulate the operation of clubs or associations exempted under section 5(1)(b).

(2) The Minister may limit the operation of regulations made under subsection (1) to a particular area or place and may make regulations for different categories of arms and ammunition.

(3) Regulations and orders made under this Act may prescribe maximum penalties of up to \$20,000 or to imprisonment for 2 years for offences created under such regulations or orders.

(4) The Minister may, after consulting the Commissioner and any interested person, issue an Arms and Ammunition Code for the purpose of this Act.

Act additional to other laws

52. This Act is in addition to any other written law relating to the manufacture, sale,

transfer, purchase, acquisition, possession, use, storage, carriage, transportation, importation or exportation of arms, ammunition or explosives.

Penalties

53. (1) A person who commits an offence under this Act is liable on conviction to the maximum penalty specified in the third column of the Schedule against the sections of the Act respectively mentioned.

(2) The penalties specified in Schedule 2 are maxima and a court may impose either a fine or imprisonment or both a fine and imprisonment up to the maximum specified.

(3) A person who commits an offence for which no penalty is prescribed in the Schedule is liable on conviction to a fine not exceeding \$2,000 or to imprisonment for 2 years.

Repeals and savings

54. (1) The Arms and Ammunition Act (Cap. 188) is repealed.

(2) The Arms and Ammunition Regulations are repealed.

(3) The following statutory instruments continue in force as if they have been made under this Act

(a) Exempted Arms and Ammunition (Legal Notice 31 of 1969 as amended by Legal Notice No. 4 of 1976);

(b) Prohibited Arms (Legal Notice No. 28 of 1976); and

(c) Arms and Ammunition (Prohibition) Order 2002 (Legal Notice No. 16 of 2002).

(4) A valid licence or permit issued under the repealed Act continues in force until it expires, surrendered or cancelled under this Act.

(5) An application for a licence or permit under the repealed Act lodged but not determined before the commencement of this Act must be determined under this Act (including the adjustment to any increase in or payment of new fees prescribed under this Act).

SCHEDULE

(Section 53(1))

MAXIMUM PENALTIES

SECTION OFFENCE

PENALTY

3(1)	Manufacturing of arms or ammunition without a licence or at a place not approved as an arsenal	\$100,000 or 10 years imprisonment
4	Possession, use or carrying of arms or ammunition without a licence	\$50,000 or 5 years
5(4)	Failure to deliver arms to police armoury or to store arm in accordance with conditions imposed by the Commissioner	\$50,000 or 5 years imprisonment
7(2)	(a) Wilfully obliterating, defacing, altering, counterfeiting or forging any mark on any arms or ammunition (b) Fraudulently marking any arms or a mark resembling or intending to resemble any mark used for marking arms (c) Wilfully obliterating, defacing, altering, counterfeiting or forging a manufacturing serial number on any arms	\$10,000 or 12 months imprisonment \$10,000 or 12 months imprisonment \$10,000 or 12 months imprisonment
9(2)	Failure to report lost or destroyed arms or ammunition	\$2,000 or 6 months imprisonment
10(1)	(a) Unlawful storing, assembling or disassembling, cleaning, repairing, testing or proving of arms or ammunition (b) Unlawful manufacturing any component or part of arms or ammunition (c) Unlawful selling, disposing of or exposing for sale of arms or ammunition (d) Unlawful keeping in possession of arms or ammunition	\$50,000 or 5 years imprisonment
10(6)	Failure to keep and maintain books of records of arms and ammunition	\$2,000 or 6 months
10(7)	(a) Selling or disposing of any arms or ammunition to a person other than holder of an arms licence (b) Repairing arms or ammunition of a person other than the holder of an arms licence	\$50,000 or 5 years imprisonment \$20,000 or 5 years imprisonment
10(8)	Failure to endorse particulars of any ammunition sold or disposed of to a person	\$10,000 or 12 months imprisonment
10(9)	(a) Failure to provide particulars the dealers stock in trade (b) Failure to provide particulars of arms and ammunition (c) Failure to provide particulars of arms and ammunition exported	\$20,000 or 2 years imprisonment \$20,000 or 2 years imprisonment \$20,000 or 2 years imprisonment
10(11)	Carrying on business as an arms dealer without a dealers licence	\$50,000 or 10 years imprisonment
11(2)	(a) Failure to allow an authorised officer to inspect stock-in-trade (b) Obstructing an authorised officer (c) Intentionally, concealing stock-in-trade from an authorised	\$20,000 or 12 months imprisonment \$20,000 or 12 months imprisonment \$20,000 or

	officer	2 years imprisonment
12(2)	Failure to attach a board displaying the nature of the business	\$2,000 or 6 months imprisonment
13(3)	(a) Failure to ensure that premises are properly maintained (b) Failure to ensure that premises secured to the satisfaction of the Commissioner (c) Failure to ensure that premises have only one means of entry	\$10,000 or 12 months imprisonment \$10,000 or 12 months imprisonment \$10,000 or 12 months imprisonment
14	(a) Shortening or authorising the shortening of the barrel of any arms (b) Converting anything having the appearance of arms into any arms (c) Buying or possessing barrel of any arms	\$20,000 or 2 years imprisonment \$20,000 or 2 years imprisonment \$10,000 or 12 months imprisonment
15(2)	(a) Failure to endorse permit (b) Failure to produce arms licence	\$2,000 or 6 months imprisonment \$2,000 or 6 months imprisonment
15(3)	Failure to record sale of arms or ammunition	\$10,000 or 12 months imprisonment
15(5)	Receiving arms or ammunition from a person who is not the holder of a permit to purchase or of any arms licence or is exempt under section 5	\$10,000 or 12 months imprisonment
15(6)	Delivering arms or ammunition to a person who is not the holder of a permit or is not exempt person	\$10,000 or 12 months imprisonment
16(1)	Importing any arms or ammunition without a licence	\$100,000 or 10 years imprisonment
16(6)	(a) Failure to endorse particulars on arms or ammunition (c) Failure to return licence to police officer within 3 days	\$10,000 or 12 months imprisonment \$2,000 or 6 months imprisonment
17	Arms and ammunition without interim import licence	\$50,000 or 5 years imprisonment
18	Delivering arms or ammunition to a consignee without production of arms licence or permit	\$50,000 or 5 years imprisonment
19(1)	Exportation of arms or ammunition without an export licence	\$100,000 or 10 years imprisonment
20(2)	Importation or exportation of prohibited arms and ammunition	\$100,000 or 10 years imprisonment
21(3)	(a) Failure to declare arms and ammunition to a customs officer (b) Failure to produce an import licence to a customs officer	\$50,000 or 5 years imprisonment \$50,000 or 5 years imprisonment
23	(1) Concealing from lawful inspection arms or ammunition imported or intended to be exported without a relevant licence (2)	\$50,000 or 5 years imprisonment \$500,000 or life imprisonment

	Trafficking in arms	
24(3)	Importing or exporting any arms or ammunition in contravention of an order or in breach of the conditions of a special licence	\$100,000 or 10 years imprisonment
25(1)	(a) Use of ship or aircraft to import or export arms or ammunition illegally (b) Receiving or storing any arms or ammunition illegally	\$100,000 or 10 years imprisonment \$100,000 or 10 years imprisonment
26(2)	(a) Possession, use or carriage of arms and ammunition in a prohibited area (b) Failure to deliver arms and ammunition on demand to a police station (c) Failure to assist a police officer in the execution of their duties in seizing arms and ammunition	\$50,000 or 5 years imprisonment \$20,000 or 2 years imprisonment \$20,000 or 2 years imprisonment
27	Importation or manufacturing of prohibited arms	\$100,000 or 10 years imprisonment
28	(a) Taking of any arms or ammunition in pawn from any other person (b) Selling any arms or ammunition by auction	\$50,000 or 5 years imprisonment \$50,000 or 5 years imprisonment
29	Carrying arms or ammunition with intent to commit an offence or to resist arrest or to prevent the arrest of another person	\$10,000 or 12 months imprisonment
30	Carrying any other arm in public place	\$20,000 or 2 years imprisonment
31(1)	Carrying imitation arms when trespassing in a building	\$10,000 or 12 months imprisonment
37(1)	(a) Failure by person in possession of arms or ammunition and failing to keep it secure and in safe custody (b) Failure by person in possession of arms and ammunition to take all reasonable precautions to ensure that it is not stolen	\$10,000 or 12 months imprisonment \$2,000 or 6 months imprisonment
38(3)	(a) Intentionally concealing of arms or ammunition (b) Refusing to produce or reveal the location of any arms or ammunition	\$50,000 or 5 years imprisonment \$50,000 or 5 years imprisonment
41(1)	Failure to deposit arms or ammunition at a police station upon expiry, suspension or cancellation of the licence	\$10,000 or 12 months imprisonment
41(4)	Failure to surrender arms or ammunition at a police station upon leaving the Fiji Islands	\$10,000 or 12 months imprisonment

Passed by the House of Representatives this 12th day of June 2003.

Passed by the Senate this 4th day of July 2003.
