

# ARMS AND AMMUNITION ACT, 2018

No. 19



of 2018

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**An Act to provide for the sale, import, export and illicit manufacturing of arms and ammunitions and trafficking in firearms; and to provide for matters incidental or connected therewith.**

*Date of Assent:* 29.06.2018

*Date of Commencement:* ON NOTICE

ENACTED by the Parliament of Botswana.

## PART I — Preliminary

1. This Act may be cited as the Arms and Ammunition Act, 2018, and shall come into operation on such date as the Minister may, by Order publish in the *Gazette*, appoint.

Short title and commencement

2. In this Act, unless the context otherwise requires —  
“airgun”, “air rifle” and “air pistol” mean, respectively, a gun, rifle or pistol which discharges missiles by the pressure of air or gas or by mechanical means which do not use the products of combustion or explosives;

Interpretation

“ammunition” means any cartridge or percussion cap designed for use in the discharge of arms, and includes gunpowder and grenades, bombs and others 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 and any ammunition or pellets for use in an airgun, air rifle or air pistol;

“arms dealer’s licence” means a licence issued under section 17;

“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;

“broker” means a person acting as an intermediary that brings together relevant parties and arranges or facilitates a transaction involving firearms in return for some form of benefit, whether financial or otherwise;

“Commissioner” means the Commissioner of Police;

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

Cap. 50:01

“dealer” means a person who is licensed to trade in firearms and ammunition under section 17;

“export permit” means a permit issued under section 13;

“firearm” means —

(a) any portable lethal weapon that expels, or is designed to expel, a shot, bullet or projectile by the action of a burning propellant, excluding antique firearms or their replicas that are not subject to authorisation in Botswana;

(b) any device which may be readily converted into a weapon referred to in paragraph (a);

(c) any weapon of any description designed or intended to discharge —  
(i) any noxious liquid, noxious gas or other noxious substance, or

- (ii) an electrical charge which, when it strikes any person or animal is of sufficient strength to stun and temporarily disable the person or animal struck (such weapon being commonly known as a “stun gun” or “electronic paralysers”);
  - (d) any airgun, air rifle, air pistol, revolver, crossbow, laser gun or any other similar weapon; or
  - (e) any light weapon;
- “gun smith” means a person licenced under section 21 to repair, test or prove firearms, but not a manufacturer or dealer;
- “import permit” means a permit issued under section 12;
- “licence” means a licence issued under section 22;
- “licensing officer” means an officer appointed under section 3 (2);
- “manufacturer” means a registered company which makes or assembles arms and ammunition and holding a manufacturer’s licence issued under section 19;
- “Part or component” means any element or replacement Element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a firearm;
- “Registry” means the Central Arms Registry referred to in section 8;
- Cap. 24:01 “repealed Act” means the Arms and Ammunition Act repealed under section 43;
- “trafficking in firearms ” has the meaning assigned to it in section 14
- “transit” means the conveyance through Botswana to another country of firearms or ammunition that have been imported; and
- Cap. 38:01 “wildlife officer” has the meaning as defined in the Wildlife Conservation and National Parks Act.

## PART II — *Administration*

Commissioner  
of Police and  
licensing  
officers

- 3.** (1) Subject to the provisions of this Act, the Commissioner shall be responsible for the administration of this Act.
- (2) The Commissioner may appoint such number of police officers as may be necessary, to be known as licensing officers, to assist in the administration of this Act.
- (3) The Commissioner shall have the following powers in administering the provisions of this Act —
- (a) to conduct public education programmes concerning this Act and all other matters relating to the safe possession and use of firearms;
  - (b) to develop a training curriculum for competency testing in the use of arms;
  - (c) to conduct research into firearms policies;
  - (d) to manage the office of the Central Arms Registry;
  - (e) to receive any fees paid in terms of this Act;
  - (f) to designate police officials as designated licensing officers;
  - (g) to appoint an officer-in-charge of the Central Arms Registry; and

(h) to exchange information on matters relating to the implementation of the United Nation Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition and the SADC Protocol on Control of Firearms, Ammunition and other Related Materials.

4. (1) The Arms and Ammunition Quota Board established under section 4 of the repealed Act, is hereby continued under this Act.

Arms and  
Ammunition  
Quota Board

(2) The Board shall consist of the Deputy Commissioner and such other persons as the Minister may, by Notice published in the *Gazette*, appoint.

(3) A member of the Board, other than the Chairperson, shall hold office for such period as may be specified in the notice appointing him or her and on the expiration of such period shall be eligible for reappointment for one more term.

5. The Deputy Commissioner shall be the Chairperson of the Board.

Deputy  
Commissioner  
as Chairperson  
of Board

6. (1) The functions of the Board shall be to —

Powers and  
functions of  
Board

(a) regulate the importation, exportation, transit and brokering of arms and ammunition;

(b) determine whether or not a licence, permit or registration certificate required under this Act should be issued;

(c) decide whether or not to cancel or suspend a licence, permit or registration certificate on good cause being shown; and

(d) determine whether or not a licence, permit or registration certificate should be amended or transferred.

(2) For the purpose of licensing and monitoring the use of firearms and ammunition, the Chairperson shall cause an investigation or enquiry to be carried out where he or she deems it necessary in terms of this Act.

(3) The Minister may give the Board written directions, of a general or specific nature, regarding the exercise of its powers and the performance of its functions, which directions shall not be inconsistent with this Act.

(4) The Board shall give effect to the Minister's directions given in accordance with subsection (3).

7. (1) Subject to the provisions of this Act, the Board shall regulate its own proceedings.

Meetings of  
Board

(2) The Board shall meet as often as is, in its opinion, necessary to conduct its business.

(3) Upon giving notice in writing of not less than 14 days, a meeting of the Board may be called by the Chairperson provided that where the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving of a shorter notice.

(4) The quorum at any meeting of the Board shall be a simple majority of the members of the Board.

(5) A decision of the Board on any question shall be by the majority of the members present and voting at the meeting and, in the event of an equality of votes, the member presiding shall have a casting vote in addition to that person's deliberative vote.

(6) At the first meeting of the Board, the members shall elect, from among their number, a Vice Chairperson who shall hold office for two years.

(7) On the expiry of the term of office of the Vice Chairperson, or where the Vice Chairperson vacates his or her office as such, a new Vice Chairperson shall be elected by the members from among their number at the next meeting of the Board or as soon thereafter as may be convenient.

(8) The Vice Chairperson may vacate his or her office as such even though he or she remains a member.

(9) The Vice Chairperson shall exercise the functions of the Chairperson during the period that the Chairperson is absent or unable to act as Chairperson.

(10) Any person invited to participate in the deliberations of a meeting of the Board shall not be entitled to vote.

Central Arms  
Registry

8. (1) The Central Arms Registry established under section 5 of the repealed Act, is hereby continued under this Act and 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.

(3) The Commissioner shall, appoint such number of officers as may be necessary to discharge duties under the office of the Central Arms Registry.

(4) The Commissioner shall maintain the Central Arms Register.

### PART III — *Control of Civilian Owned Arms and Ammunition*

Firearm and  
ammunition  
licence

9. (1) Subject to the provisions of this Act, a person shall not use, purchase, acquire or have in his or her possession any firearm or ammunition unless he or she holds a licence issued under this Act.

(2) The Minister may make regulations for —

(a) the issue and renewal of an arms licence;

(b) the conditions and duration of the licence;

(c) the fees payable for the issue of the licence; and

(d) the quantities of ammunition authorised to be purchased, acquired or held by any person in any one year.

(3) An arms licence shall describe the firearm and ammunition to which it relates and specify any marks or numbers in reference to the firearm or ammunition as may be prescribed.

- (4) Any person who —
  - (a) purchases, acquires or has in his or her possession any firearm or ammunition without a licence issued under this Act; or
  - (b) has in his or her possession ammunition in quantities in excess of those authorised,

commits an offence and is liable to a fine not exceeding P5 000 or to imprisonment for a term not exceeding three years, or to both.

**10.** (1) The following persons shall be exempt from the provisions of section 9 —

- (a) a person carrying on business as an arms dealer and registered as such under this Act;
- (b) a person carrying on business as an auctioneer or carrier, or a servant of any such person;
- (c) a member of an approved club when engaged as such member in, or in connection with, drill or target practice;
- (d) a person taking part in a theatrical performance or any rehearsal thereof, or in the production of any cinematography film for purposes of such performance, rehearsal or production;
- (e) a person attending any sporting activity for the purposes of starting races at such sporting activity; and
- (f) the proprietor or manager of an abattoir or any person employed at an abattoir for the slaughter of animals.

(2) The Minister may, by Order published in the *Gazette*, specify other persons for purposes of this section.

**11.** (1) Subject to the provisions of this section, any licensing officer, wildlife officer, customs officer, a member of the Botswana Defence Force, an immigration officer or an officer of the Directorate of Intelligence and Security may demand from any person whom he or she has reasonable grounds to believe to be in possession of arms or ammunition, the production of his or her arms licence, certificate, permit or 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, the licensing officer, wildlife officer or customs officer shall seize and retain the arms or ammunition forthwith and give the person 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, game warden or customs officer shall 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 commits an offence and is liable to a fine not exceeding P5 000 or to a term of imprisonment not exceeding three years, or to both.

Exemption  
from  
holding  
licence

Production of  
arms licence  
or certificate

## PART IV — *Importation and Exportation of Arms and Ammunition*

Prohibition of importation and transit of arms and ammunition

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

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

(3) No person may carry in transit through Botswana any firearms or ammunition without a transit permit issued in terms of this Act.

(4) The Minister may make regulations for the issue and renewal of an import or transit permit, the conditions and duration of the permit, and any fee payable for the issue of the permit.

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

(6) Subject to subsection (7), any person who contravenes any provision of this section commits an offence and is liable to a fine not exceeding P20 000 or to a term of imprisonment not exceeding 10 years, or to both.

(7) Where the firearm or ammunition in relation to which an offence has been committed is an arm of war, the penalty shall be a term of imprisonment of not more than 10 years.

Prohibition of exportation of arms and ammunition

**13.** (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) The Minister may make regulations to 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 commits an offence and is liable to a fine not exceeding P50 000 or to a term of imprisonment not exceeding 25 years, or to both.

Prohibition of trafficking in firearms

**14.** (1) Any person who imports, exports, acquires, sells, delivers moves or transfers a firearm, their parts and components or ammunition from or across the territory of Botswana to another State without a licence issued in accordance with this Act commits an offence of trafficking in firearms and is liable to a fine not exceeding P500 000 or to a term of imprisonment not exceeding 25 years, or to both.

(2) Any person attempting or conspiring to commit the conduct described in subsection (1) commits an offence and is liable to a fine not exceeding P500 000 or to a term of imprisonment not exceeding 25 years, or to both.

Registration and marking of imported arms and ammunition

**15.** (1) All firearms and ammunition imported into Botswana either for the personal use of the importer or otherwise shall be registered and marked in such a manner as may be prescribed.

(2) The Minister may make regulations to 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) The regulations made under this section may exempt such persons as may be prescribed from registering their arms or ammunition.

(5) The regulations made under this section may provide for the issue of a temporary permit for the possession of a firearm and ammunition and any fee payable for the permit.

(6) Subject to subsection (7), any person who contravenes any provision of this section commits an offence and is liable to a fine not exceeding P5 000 or to a term of imprisonment not exceeding three years, or to both.

(7) Where the firearms or ammunition in relation to which an offence has been committed is arms of war, the penalty shall be a term of imprisonment not exceeding 10 years.

#### PART V — *Sale and Transfer of Arms and Ammunition*

**16.** (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 or her possession for sale or transfer,

any firearm or ammunition, unless he or she is a registered arms dealer in accordance with the provisions of section 17.

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

(a) that other person is a registered arms dealer;

(b) that other person is the holder of an arms licence authorising him or her to purchase, acquire or have in his or her possession the arms or ammunition in question, or shows that he or she is a person entitled by virtue of the provisions of this Act to purchase, acquire or have in his or her possession those arms or ammunition without holding an arms licence; or

(c) that other person is a carrier or an employee of a carrier and the delivery of the firearm or ammunition is in the ordinary course of his or her business or employment as such.

(3) Any person who contravenes any provision of this section commits an offence and is liable to a fine not exceeding P30 000 or to a term of imprisonment not exceeding 15 years, or to both.

**17.** (1) Subject to the provisions of this section, no person shall deal in firearms or ammunition, unless he or she has been registered in accordance with the provisions of this section and has been issued with an arms dealer's licence.

Restrictions on  
sale or transfer  
of arms or  
ammunition

Registration of  
arms dealers

(2) The Minister may make regulations to 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) The regulations made under subsection (2) may designate dealers as either wholesale dealers or retail dealers.

(4) If any person, who for the purpose of procuring the registration for himself or herself or any other person as an arms dealer, makes any statement which he or she knows to be false, the person commits an offence and is liable to a fine not exceeding P5 000 or to a term of imprisonment not exceeding three years, or to both.

(5) Dealing in arms shall be a reserved trade and a licence for such trade shall be issued only to citizens of Botswana or companies wholly owned by citizens of Botswana.

Separate places  
of business

**18.** (1) Subject to the provisions of this section, no person shall be registered as an arms dealer under section 17 in respect of more than one place of business without a separate registration for each place of business concerned.

(2) Where one operates a business as an arms dealer in premises divided by walls but otherwise forming part of one building or structure, only one registration shall be required.

(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.

#### PART VI — *Manufacture, Repair and Conversion of Arms and Ammunition*

Restriction on  
manufacture  
of arms and  
ammunition

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

(2) In this section, "manufacture", in relation to firearms or ammunition, includes the filling, refilling and other processing of an ammunition.

(3) The Minister may make regulations to 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.

(4) Any person who contravenes the provisions of subsection (1) commits an offence and is liable to a fine not exceeding P10 000 or to a term of imprisonment not exceeding five 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 or she 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.

(7) A manufacturer of firearms and ammunition shall keep records of all items manufactured under this section in such manner as may be prescribed.

**20.** A manufacturer of firearms shall apply an identification mark to each firearm, at the time of manufacture as may be prescribed.

Marking of  
firearms at  
manufacture

**21.** (1) No person may repair, test or prove firearms without a gun smith licence issued in terms of this Act.

Repair of  
firearms

(2) The Minister may make regulations for the issue and renewal of gun smith licence, the conditions and duration of the licence, and any fees payable for the issue of the licence.

(3) Any person who contravenes the provisions of subsection (1) commits an offence and is liable to a fine not exceeding P5 000 or to a term of imprisonment not exceeding three years, or to both.

#### PART VII — *Registration of Arms and Ammunition*

**22.** (1) Any person who owns a firearm shall have such a firearm registered in accordance with this Act.

Firearm  
registration  
licence

(2) The Minister may make regulations for the issue and renewal of a firearm registration licence, the conditions and duration of the licence, and any fees payable for the issue of the licence.

(3) Any person who fails to register his or her firearm in contravention of subsection (1) commits an offence and is liable to a fine not exceeding P5 000 or to imprisonment for a term not exceeding three years, or to both.

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

Register of  
dealers in  
arms and  
ammunition

#### PART VIII — *Appeals*

**24.** (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 Registrar of his or her name from the register of arms dealers, he or she may appeal in writing to the Minister.

Appeals

(2) Notice of an appeal under this section specifying the grounds of appeal shall be lodged with the Registrar within 14 days after the date on which the appellant first received notice, whether written or oral, of the decision by which he or she is aggrieved and the Registrar 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 Registrar as he or she thinks fit.

PART IX — *Special Provisions as to Arms and Ammunition*

Special types  
of arms and  
ammunition

**25.** (1) It shall not be lawful for any person, other than a person in the service of the State in his or her capacity as such or a person authorised in writing in that behalf by the Minister, or a person of a class for the time being authorised in that behalf by the Minister by Notice published in the *Gazette*, to sell, transfer, purchase, acquire, or have in his or her possession —

- (a) any firearms 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 until 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 firearms 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) commits an offence and is liable to a fine not exceeding P10 000 or to a term of imprisonment not exceeding five 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 authorised fails to comply with any of those conditions, he or she commits an offence and is liable to a fine not exceeding P10 000 or to a term of imprisonment not exceeding five years, or to both.

(4) The Minister may at any time, if he or she thinks fit, revoke any authority given by him or her to any person under this section by notice in writing requiring that person to deliver 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 the person, fails to comply with that requirement, he or she commits an offence and is liable to a fine not exceeding P10 000 or to a term of imprisonment not exceeding five years, 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*.

Prohibited  
firearms

**26.** (1) The following firearms are prohibited firearms and may not be possessed or licensed in terms of this Act —

- (a) pistol;
- (b) hand gun;
- (c) 222 and .22 caliber gun.

(2) The provision of subsection (1) shall not apply to firearms already licensed before the commencement of this Act.

**27.** For purposes of this Act, a paint ball shall not be regarded as firearm.

Paint ball  
not firearm

**28.** (1) A person shall not purchase, acquire, or have in his or her possession a silencer or muffler without a licence issued under this Act.

Possession of  
silencer or  
muffler

(2) For the purposes of this Act “silencer or muffler” means any accessory designed or adapted for silencing, muffling or diminishing the noise or flash of a firearm.

(3) Any person who contravenes this section commits an offence and is liable to a fine not exceeding P5 000 or to imprisonment for a term not exceeding three years, or to both.

**29.** (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 or her possession any firearm or ammunition, and no person shall let on hire or give any firearm or ammunition to a person whom he or she knows or has reason for believing to be under the age of 18 years.

Possession  
of arms and  
ammunition by  
young persons

(2) A person who has attained the age of 16 years may have in his or her possession arms or ammunition if he or she is an exempted person in accordance with the provisions of section 10 or where he or she is under the immediate supervision of an adult who is authorised under this Act to possess arms or ammunition.

(3) Any person who contravenes any provision of this section commits an offence.

**30.** (1) Any person who makes or attempts to make any use whatsoever of a firearm or an imitation firearm with intent to resist or prevent the lawful apprehension or detention of himself or herself or any other person commits an offence and is liable to a term of imprisonment not exceeding 14 years.

Use of arms to  
resist arrest

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

**31.** Any person who without reasonable cause, proof of which shall lie with the person, discharges or fires any firearm 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, commits an offence and is liable to a fine not exceeding P5 000 or to a term of imprisonment not exceeding three years, or to both.

Dangerous  
acts with  
firearms

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

Restriction  
of convicted  
person  
possessing  
arms or  
ammunition

(2) Where any person is convicted of an offence under this Act, the Board may —

(a) cancel any licence or certificate issued to the person under this Act; and

(b) order that the person shall not, at any time during such period as may be specified, not exceeding 10 years from the date of conviction, have in his or her possession any firearm or ammunition or any type or class of firearm or ammunition specified in the order.

(3) Any firearms 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 firearm or ammunition in relation to which the offence has been committed, he or she may order the return of those firearm 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 licence or certificate to the Registrar.

(5) Any person who contravenes any provision of this section commits an offence and is liable to a fine not exceeding P5 000 or to a term of imprisonment not exceeding three years, or to both.

#### PART X — *Miscellaneous Provisions*

Powers of  
Minister in case  
of offences by  
registered arms  
dealers

**33.** 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 firearms 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 or her 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.

Register of  
transactions  
in arms and  
ammunition

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

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

(3) Every registered arms dealer shall submit, when requested to do so by 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 or herself for the purposes of this section,

commits an offence and is liable to a fine not exceeding P5 000 or to a term of imprisonment not exceeding three years, or to both.

**35.** (1) Every registered arms dealer shall make suitable provision at his or her place of business for the storage and safe custody of all firearms and ammunition in his or her possession to the satisfaction of the licensing officer of the area in which the business is situated.

Storage and  
safe custody  
of firearms  
and ammunition

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

(3) Every person who has in his or her possession any firearm or ammunition shall at all times ensure that the arms or ammunition is kept in a safe and secure place as may be prescribed.

(4) The regulations made under subsection (3) may prescribe the security measures, both with regard to the safe custody of arms and ammunition and the condition in which they shall be kept and carried in public places.

(5) Any person who contravenes any provision of this section commits an offence and is liable to a fine not exceeding P5 000 or to a term of imprisonment not exceeding three years, or to both.

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

**36.** (1) Any person who has possession of a firearm or ammunition shall, if the firearm or ammunition is lost, stolen or accidentally destroyed, or in the case of a firearm, if it is 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.

Loss of arms  
or ammunition  
to be reported

(2) Any person who contravenes any provision of this section commits an offence and is liable to a fine not exceeding P5 000 or to a term of imprisonment not exceeding three years, or to both.

Destruction of arms

**37.** (1) Where any person is in possession of a firearm for which he or she has no further use or which has been rendered incapable of further use and wishes to destroy them, the person shall surrender the firearm to the licensing officer of the area in which he or she resides and that officer shall —

- (a) destroy the firearm by rendering them incapable of future use; or
- (b) if the firearm is of any possible value or use, with the authority of the person surrendering it, forward it 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 commits an offence.

Inherited firearms or firearms received as gift

**38.** (1) A person who inherits or receives as a gift a firearm shall —

- (a) if he or she wishes to keep the firearm, apply for an appropriate licence, permit or authorisation in terms of this Act; or
- (b) if he or she does not wish to keep the firearm, or fails to obtain the appropriate licence, permit or authorisation, have the firearm deactivated or dispose of it in terms of this Act.

Preservation of firearms and ammunition of historical and monetary value

**39.** (1) If it appears to the Minister that it is expedient in the public interest to make a provision for the preservation of any firearm and ammunition for historical and monetary value purposes, he or she may for that purpose make an order by notice (in this Act referred to as a “firearm preservation notice”) with respect to such firearm ammunition as may be specified in the notice:

Provided that that no firearm shall be preserved for historical and monetary value purposes unless the firearm is deactivated.

(2) For purposes of this section “deactivated” means to render permanently inoperable and “deactivation” has a corresponding meaning.

(3) A firearm may only be deactivated by a gunsmith in the prescribed manner.

(4) If a firearm is deactivated by a gunsmith —

- (a) the gunsmith shall issue a certificate to that effect indicating the manner in which the deactivation was performed;
- (b) the holder of the licence in respect of the firearm in question shall notify the Registrar within 14 days after such deactivation, and at the same time forward to the Registrar a copy of the deactivation certificate; and
- (c) the gunsmith shall notify the Registrar within 14 days after any deactivation done by him or her, and at the same time forward to the Registrar a copy of the deactivation certificate.

(5) The Minister may, by notice in the *Gazette*, determine that a certificate of deactivation which is valid in a country other than Botswana is a valid certificate of deactivation in Botswana.

<p><b>40.</b> Any notice required or authorised by this Act to be given to any person may be sent by registered post in a letter addressed to the person at his or her 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 or she is registered.</p>	<p>Service of notices</p>
<p><b>41.</b> (1) A person shall not act as a broker for the negotiation or arrangement of transactions involving the transfer of firearms their parts and components or ammunition, without a brokers permit.</p>	<p>Requirement for brokers permit</p>
<p>(2) Any person who contravenes the provisions of this section commits an offence and is liable to a fine not exceeding P5 000 or to a term of imprisonment not exceeding three years, or to both.</p>	
<p><b>42.</b> (1) A person shall not convert into a firearm anything which, though having the appearance of being a firearm, is so constructed as to be incapable of discharging any missile through the barrel thereof.</p>	<p>Conversions</p>
<p>(2) Any person who contravenes the provisions of this section commits an offence and is liable to a fine not exceeding P5 000 or to a term of imprisonment not exceeding three years, or to both.</p>	
<p><b>43.</b> A person who is found in possession of any part or component of a firearm without a licence or permit or other lawful justification, commits an offence and is liable to a fine not exceeding P 5 000 or to a term of imprisonment not exceeding three years, or to both.</p>	<p>Part and component</p>
<p><b>44.</b> Any person who contravenes any of the provisions of this Act for which a penalty is not prescribed is liable to a fine not exceeding P5 000 or to a term of imprisonment not exceeding three years, or to both.</p>	<p>Offences and penalties</p>
<p><b>45.</b> The Minister may make regulations for any matter which is required to be prescribed or for the better carrying out of the provisions of this Act.</p>	<p>Regulations</p>
<p><b>46.</b> The Arms and Ammunition Act is hereby repealed.</p>	<p>Repeal of Cap. 24:01</p>
<p><b>47.</b> Notwithstanding the repeal effected under section 46 —</p> <p>(a) any subsidiary legislation that was made under the repealed Act shall continue in force as if made under this Act so far as it is not inconsistent with this Act;</p> <p>(b) any licence, permit or registration certificate issued under the repealed Act shall continue in force as if it was issued under this Act;</p> <p>(c) a member of the Board appointed under the repealed Act shall continue to be a member of the Board for such period as was specified in the instrument of appointment;</p> <p>(d) any legal proceedings which, before the coming into operation of this Act, were pending shall be continued or enforced in the same manner as they would have been continued or enforced before the coming into operation of this Act; and</p> <p>(e) the Minister may, by Order published in the <i>Gazette</i>, make such transitional arrangements not otherwise provided for in this Act, as shall be necessary.</p>	<p>Transitional and Savings</p>

**PASSED by the National Assembly this 12th day of April, 2018.**

**BARBARA N. DITHAPO,**  
*Clerk of the National Assembly.*