

Arms Act 1959

Chapter VI - Miscellaneous

Notwithstanding anything contained in the Sea¹[Customs Act, 1962 (52 of 1962)] no arms or ammunition shall be deposited in any warehouse licensed under¹[section 58] of that Act without the sanction of the Central Government.

1. Substituted by Act 25 of 1983, Section 13 w.e.f. 22-6-1983.

Section 35 - Criminal responsibility of persons in occupation of premises in certain cases

Where any arms or ammunition in respect of which any offence under this Act has been or is being committed are or is found in any premises, vehicle or other place in the joint occupation or under the joint control of several persons, each of such persons in respect of whom there is reason to believe that he was aware of the existence of the arms or ammunition in the premises, vehicle or other place shall, unless the contrary is proved, be liable for that offence in the same manner as if it has been or is being committed by him alone.

Section 36 - Information to be given regarding certain offences

(1) Every person aware of the Commission of any offence under this Act shall, in the absence of reasonable excuse the burden of proving which shall lie upon such person, give information of the same to the officer in charge of the nearest police station or the magistrate having jurisdiction.

(2) Every person employed or working upon any railway, aircraft, vessel, vehicle or other means of conveyance shall, in the absence of reasonable excuse the burden of proving which shall lie upon such person, give information to the officer in charge of the nearest police station regarding any box, package or bale in transit which he may have reason to suspect contains arms or ammunition in respect of which an offence under this Act has been or is being committed.

Section 37 - Arrest and searches

Save as otherwise provided in this Act,--

(a) all arrests and searches made under this Act or under any rules made thereunder shall be carried out in accordance with the provisions of¹[the Code of Criminal Procedure, 1973 (2 of 1974)], relating respectively to arrests and searches made under that Code;

(b) any person arrested and any arms or ammunition seized under this Act by a person not being a magistrate or a police officer shall be delivered without delay to the officer in charge of the nearest police station and that officer shall--

(i) either release that person on his executing a bond with or without sureties to appear before a magistrate and keep the things seized in his custody till the appearance of that person before the magistrate, or

(ii) should that person fail to execute the bond and to furnish, if so required, sufficient sureties, produce that person and those things without delay before the magistrate.

1. Substituted by Act 25 of 1983, Section 14 w.e.f. 22-6-1983.

Section 38 - Offences to be cognizable

Every offence under this Act shall be cognizable within the meaning of the¹[Code of Criminal Procedure, 1973 (2 of 1974)]

1. Substituted by Act 25 of 1983, Section 14 w.e.f. 22-6-1983.

Section 39 - Previous sanction of the district magistrate necessary in certain cases

No prosecution shall be instituted against any person in respect of any offence under section 3 without the previous sanction of the district magistrate.

Section 40 - Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Section 41 - Power to exempt

Where the Central Government is of the opinion that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette and subject to such conditions, if any, as it may specify in the notification,--

(a)¹[exempt any person or class of persons (either generally or in relation to such description of arms and ammunition as may be specified in the notification)], or exclude any description of arms or ammunition, or withdraw any part of India, from the operation of all or any of the provisions of this Act; and

(b) as often as may be, cancel any such notification and again subjects, by a like notification, the person or class of persons or the description of arms and ammunition or the part of India to the operation of such provisions.

1. Substituted by Act 25 of 1983, Section 15 w.e.f. 22-6-1983.

Section 42 - Power of take census of firearms

(1) The Central Government may, by notification in the Official Gazette, direct a census to be taken of all firearms in any area and empower any officer of Government to take such census.

(2) On the issue of any such notification all persons having in their possession any firearm in that area shall furnish to the officer concerned such information as he may require in relation thereto and shall produce before him such firearms if he so requires.

Section 43 - Power to delegate

(1) The Central Government may, by notification in the Official Gazette, direct that any power or function which may be exercised or performed by it under this Act other than the power under section 41 or the power under section 44 may, in relation to such matters and subject to such conditions, if any, as it may specify in the notification, be exercised or performed also by--

(a) such officer or authority subordinate to the Central Government, or

(b) such State Government or such officer or authority subordinate to the State Government, as may be specified in the notification.

(2) Any rules made by the Central Government under this Act may confer powers or impose duties or authorise the conferring of powers or imposition of duties upon any State Government or any officer or authority subordinate thereto.

Section 44 - Power to make rules

(1)The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--

(a) the appointment; jurisdiction, control and functions of licensing authorities;¹[including the areas and the categories of arms and ammunition for which they may grant licences];

(b) the form and particulars of application for the grant or renewal of a licence and where the application is for the renewal of a licence, the time which it shall be made;

(c) the form in which and the conditions subject to which any licence may be granted or refused, renewed, varied, suspended or revoked;

(d) where no period has been specified in this Act, the period for which any licence shall continue to be in force;

(e) the fees payable in respect of any application for the grant or renewal of a licence and in respect of any licence granted or renewed and the manner of paying the same;

(f) the manner in which the maker's name, the manufacturer's number or other identification mark of a firearm shall be stamped or otherwise shown thereon;

(g) the procedure for the test or proof of any firearms;

(h) the firearms that may be used in the course of training, the age-limits of persons who may use them and the conditions for their use by such persons;

(i) the authority to whom appeals may be preferred under section 18, the procedure to be followed by such authority and the period within which appeals shall be preferred, the fees to be paid in respect of such appeals and the refund of such fees;

(j) the maintenance of records or accounts of anything done under a licence other than a licence under section 3 or section 4, the form of, and the entries to be made in, such records or accounts and the exhibition of such records or accounts to any police officer or to any officer of Government empowered in this behalf;

(k) the entry and inspection by any police officer or by any officer of Government empowered in this behalf of any premises or other place in which arms or ammunition are or is manufactured or in which arms or ammunition are or is kept by a manufacturer of or dealer in such arms or ammunition and the exhibition of the same to such officer;

(l) the conditions subject to which arms or ammunition may be deposited with a licensed dealer or in a unit armoury as required by sub-section (1) of section 21 and the period on the expiry of which the things so deposited may be forfeited;

(m) any other matter is to be, or may be, prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in²[two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the session or the successive sessions aforesaid]; both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

1. Inserted by Act 25 of 1983, Section. 16 w.e.f. 22-6-1983.

2. Substituted by Act 25 of 1983, Section 16 w.e.f. 22-6-1983.

Section 45 - Act not to apply in certain cases

Nothing in this Act shall apply to--

(a) arms or ammunition on board any sea-going vessel or any aircraft and forming part of the ordinary armament or equipment of such vessel or aircraft;

(b) acquisition, possession or carrying, the manufacture, repair, conversion, test or proof, the sale or transfer or the import, export or transport of arms or ammunition--

(i) by or under orders of the Central Government, or

(ii) by a public servant in the course of his duty as such public servant, or

(iii) by a member of the National Cadet Corps raised and maintained under the National Cadet Corps Act, 1948 (31 of 1948), or by any officer or enrolled person of the Territorial Army raised and maintained under the Territorial Army Act, 1948 (56 of 1948) or by any member of any other forces raised and maintained or that may hereafter be raised and maintained under any Central Act, or by any member of such other forces as the Central Government may, by notification in the Official Gazette, specify, in the course of his duty as such member, officer or enrolled person.

(c) any weapon of an obsolete pattern or of antiquarian value or in disrepair which is not capable of being used as a Firearm either or without repair;

(d) the acquisition, possession or carrying by a person of minor parts of arms or ammunition which are not intended to be used with complementary parts acquired or possessed by that or any other person.

Section 46 - Repeal of Act 11 of 1878

(1) The Indian Arms Act, 1878, is hereby repealed.

(2) Notwithstanding the repeal of the Indian Arms Act, 1878 (11 of 1878), and without prejudice to the provisions of sections 6 and 24 of the General Clauses Act, 1897 (10 of 1897), every licence granted or renewed under the first-mentioned Act and in force immediately before the commencement of the Act shall, unless sooner revoked, continue in force after such commencement for the unexpired portion of the period for which it has been granted or renewed.
