

THE ARMS ACT

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THE ARMS ACT

[INDIA ACT XI, 1878] (1st October, 1878)

I — PRELIMINARY

1. Nothing herein contained shall apply to —

(a) arms, ammunition or military stores on board any sea-going vessel and forming part of her ordinary armament or equipment, or

(b) the manufacture, conversion, sale, import, export, transport, bearing or possession of arms, ammunition or military stores by order of the Government, or by a public servant or a member of either of the forces constituted by the Burma Territorial Force Act or the Burma Auxiliary Force Act, in the course of his duty as such public servant or member.

2-3. * * * *

4. In this Act, unless there be something repugnant in the subject or context, —

“cannon” includes also all howitzers, mortars, wall-pieces, mitrailleuses and other ordnance and machine-guns, all parts of the same, and all carriages, platforms and appliances for mounting, transporting and serving the same:

“arms” includes —

(i) clasp-knives the blades of which are pointed and exceed three inches in length;

(ii) knives, with pointed blades rigidly affixed, or capable of being rigidly affixed, to the handle, and measuring in all over five inches in length which are not intended exclusively for domestic, agricultural or industrial purposes: provided that it shall be presumed until the contrary is proved that knives of this description are not intended exclusively for such purposes

(iii) knives of such other kinds as the President of the Union may, by notification, prescribe; and

(iv) fire-arms, bayonets, swords, daggers, spears, spear-heads and bows and arrows, also cannon and parts of arms, and machinery for manufacturing arms;

“ammunition” includes also all articles specially designed for torpedo service and submarine mining, rockets, gun-cotton, dynamite, lithofracteur and other explosive or fulminating material, gun-flint, gun-wads, Percussion-caps, fuses and friction-tubes, all parts of ammunition and all machinery for manufacturing ammunition, but does not include lead, sulphur or saltpetre;

“military stores”, in any section of this Act as applied to any part of the Union of Burma, means any military stores to which the President of the Union may from time to time, by notification in the Gazette, specially extend such section in such part, and includes also all lead, sulphur, saltpetre, and other material to which the President of the Union may from time to time so extend such section:

“licence” means a licence granted under this Act, and “licensed” means holding such licence.

II — MANUFACTURE, CONVERSION AND SALE

5. No person shall manufacture, convert or sell, or keep, offer or expose for sale, any arms, ammunition on military stores, except under a licence and in the manner and to the extent permitted thereby.

Nothing herein contained shall prevent any person from selling any arms or ammunition which he lawfully possesses for his own private use to any person who is not by any enactment for the time being in force prohibited from possessing the same; but every person so selling arms or ammunition to any person other than a person entitled to possess the same by reason of an exemption under section 27 of this Act shall, without unnecessary delay, give to the District Magistrate, or to the officer in charge of the nearest police-station, notice of the sale and of the purchaser’s name and address.

III —IMPORT EXPORT AND TRANSPORT

6. No person shall bring or take by sea or by land into or out of the Union of Burma any arms, ammunition or military stores except under a licence and in the manner and to the extent permitted by such licence.

Nothing in the first clause of this section extends to arms (other than cannon) or ammunition imported or exported in reasonable quantities for his own private use by any person lawfully entitled to possess such arms or ammunition; but the Collector of Customs or any other officer empowered by the President of the Union in this behalf by name or in virtue of his office may at any time detain such arms or ammunition until he receives the orders of the President of the Union thereon.

Explanation.—Arms, ammunition and military stores taken from one part of the Union of Burma to another by sea, or across intervening territory not being part of the Union of Burma, are taken out of and brought into the Union of Burma within the meaning of this section.

7. Notwithstanding anything contained in the Sea Customs Act, no arms, ammunition or military stores shall be deposited in any warehouse licensed under section 16 of that Act without the sanction of the President of the Union.

8-9. * * * *

10. The President of the Union may, from time to time, by notification in the Gazette, —

(a) regulate or prohibit the transport of any description of arms, ammunition or military stores over the

whole of the Union of Burma or any part thereof, either altogether or except under a licence and to the extent and in the manner permitted by such licence, and

(b) * * * *

Explanation.— Arms, ammunition or military stores transhipped at a port in the Union of Burma are transported within the meaning of this section.

11. The President of the Union may, at any places along the boundary-line between the Union of Burma and other territory, and at such distance within such line as he deems expedient, establish searching-posts at which all vessels, carts and baggage-animals, and all boxes, bales and packages in transit, may be stopped and searched for arms, ammunition and military stores by any officer empowered by the President of the Union in this behalf by name or in virtue of his office.

12. When any person is found carrying or conveying any arms, ammunition or military stores, whether covered by a licence or not, in such manner or under such circumstances as to afford just grounds of suspicion that the same are being carried by him with intent to use them, or that the same may be used, for any unlawful purpose, any person may without warrant apprehend him and take such arms, ammunition or military stores from him.

Any person so apprehended, and any arms, ammunition or military stores so taken by a person not being a Magistrate or police-officer, shall be delivered over as soon as possible to a police-officer.

All persons apprehended by, or delivered to, a police-officer, and all arms and ammunition seized by or delivered to any such officer under this section, shall be taken without unnecessary delay before a Magistrate.

IV — GOING ARMED AND POSSESSING ARMS, ETC

13. No person shall go armed with any arms except under a licence and to the extent and in the manner permitted thereby.

Any person so going armed without a licence or in contravention of its provisions may be disarmed by any Magistrate, police-officer or other person empowered by the President of the Union in this behalf by name or by virtue of his office.

For the purposes of this section, “arms” includes also knives with pointed blades rigidly affixed, or capable of being rigidly affixed, to the handle, and measuring in all over five inches in length, which are intended exclusively for domestic, agricultural or industrial purposes.

14. No person shall have in his possession or under his control any cannon or fire-arms, or any ammunition or military stores, except under a licence and in the manner and to the extent permitted thereby.

15. In any place to which the President of the Union may by notification specially extend this section, no person shall have in his possession any arms of any description, except under a licence and in the manner and to the extent permitted thereby.

16. (1) Any person possessing arms, ammunition or military stores the possession whereof has, in consequence of the cancellation or expiry of a licence or of an exemption or by the issue of a notification under section 15 or otherwise, become unlawful, shall without unnecessary delay deposit the same either with the officer in charge of the nearest police-station or, at his option and subject to such conditions as the President of the Union may by rule prescribe, with a licensed dealer.

(2) When arms, ammunition or military stores have been deposited under sub-section (1) * *

* *¹, the depositor shall, at any time before the expiry of such period as the President of the

Union may by rule prescribe, be entitled —

- (a) to receive back any thing so deposited the possession of which by him has become lawful, and
- (b) to dispose, or authorize the disposal, of any thing so deposited by sale or otherwise to any Person whose possession of the same would be lawful and to receive the proceeds of any such sale:

Provided that nothing in this sub-section shall be deemed to authorize the return or disposal of any thing the confiscation of which has been directed under section 24.

(3) All things deposited as aforesaid and not returned or disposed of under sub-section (2) within the prescribed period therein referred to shall be forfeited to [the State].

(4) (a) The President of the Union may make rules consistent with this Act for carrying into effect the provisions of this section.

Foot note: 1. The words " or, before the first day of January, 1920, under the provisions of any law for the time being in force" were deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

(b) In particular and without prejudice to the generality of the foregoing provision, the President of the Union may by rule prescribe —

- (i) the conditions subject to which arms, ammunition and military stores may be deposited with a licensed dealer, and
- (ii) the period after the expiry of which things deposited as aforesaid shall be forfeited under sub-section (3).

V — LICENCES

17. The President of the Union may from time to time, by notification in the Gazette, make rules to determine the officers by whom, the form in which, and the terms and conditions on and subject to which, any licence shall be granted; and may by such rules among other matters —

- (a) fix the period for which such licence shall continue in force;
- (b) fix a fee payable by stamp or otherwise in respect of any such licence other than a licence for possession;
- (c) direct that the holder of any such licence other than a licence for possession shall keep a record or account, in such form as the President of the Union may prescribe, of anything done under such licence, and exhibit such record or account when called upon by an officer of Government to do so;
- (d) empower any officer of Government to enter and inspect any premises in which arms, ammunition or military stores are manufactured or kept by any person holding a licence of the description referred to in section 5 or section 6;
- (e) direct that any such person shall exhibit the entire stock of arms, ammunition and military stores in his possession or under his control to any officer of Government so empowered ; and
- (f) require the person holding any licence or acting under any licence to produce the same, and to produce or account for the arms, ammunition or military stores covered by the same when called upon by an officer of Government so to do.

18. Any licence may be cancelled or suspended —

(a) by the officer by whom the same was granted, or by any authority to which he may be subordinate, or by any District Magistrate within the local limits of whose jurisdiction the holder of such licence may be, when, for reasons to be recorded in writing, such officer, authority or Magistrate deems it necessary for the security of the public peace to cancel or suspend such licence; or

(b) by any Judge or Magistrate before whom the holder of such licence is convicted of an offence against this Act, or against the rules made under this Act; and

the President of the Union may, by notification in the Gazette, cancel or suspend all or any licences throughout the whole or any portion of the Union of Burma.

18A. The President of the Union may, by notification, make rules —

(a) providing for appeal from or revision of —

(i) orders refusing to issue or renew arms licences, and

(ii) orders canceling or suspending licences under clause (a) of section 18 and

(b) prescribing the procedure and the periods of limitation for such appeals and revisions.

VI — PENALTIES

19. Whoever commits any of the following offences (namely) : —

(a) manufactures, converts, or sells, or keeps, offers or exposes for sale, any arms, ammunition or military stores in contravention of the provisions of section 5;

(b) fails to give notice as required by the same section;

(c) imports or exports any arms, ammunition or military stores in contravention of the provisions of section 6;

(d) transports any arms, ammunition or military stores in contravention of a regulation or prohibition issued under section 10;

(e) goes armed in contravention of the provisions of section 13;

(f) has in his possession or under his control any arms, ammunition or military stores in contravention of the provisions of section 14 or section 15;

(g) intentionally makes any false entry in a record or account which, by a rule made under section 17, clause (c), he is required to keep;

(h) intentionally fails to exhibit anything which, by a rule made under section 17, clause (e), he is required to exhibit ; or

(i) fails to deposit arms, ammunition or military stores, as required by section 14 or section 16;

shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

20. Whoever does any act mentioned in clause (a), (c), (d) or (f) of section 19, in such manner as to indicate an intention that such act may not be known to any public servant as defined in the Penal Code, or to any person employed upon a railway or to the servant of any public carrier,

and whoever, on any search being made under section 25, conceals or attempts to conceal any arms, ammunition or military stores,

shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

21. Whoever, in violation of condition subject to which a licence has been granted, does or omits to do any act shall, when the doing or omitting to do such act is not punishable under section 19 or section 20, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

22. Whoever knowingly purchases any arms, ammunition or military stores from any person not licensed or authorized under the proviso to section 5 to sell the same; or

delivers any arms, ammunition or military stores into the possession of any person without previously ascertaining that such person is legally authorized to possess the same,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

23. Any person violating any rule made under this Act, and for the violation of which no penalty is provided by this Act, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

24. When any person is convicted of an offence punishable under this Act, committed by him in respect of any arms, ammunition or military stores, it shall be in the discretion of the convicting Court or Magistrate further to direct that the whole or any portion of such arms, ammunition or military stores, and any vessel, cart or baggage-animal used to convey the same, and any box, package or bale in which the same may have been concealed, together with the other contents of such box, package or bale, shall be confiscated.

VII — MISCELLANEOUS

25. Whenever any Magistrate has reason to believe that any person residing within the local limits of his jurisdiction has in his possession any arms, ammunition or military stores for any unlawful purpose, or that such person cannot be left in the possession of any such arms, ammunition or military stores without danger to the public peace,

such Magistrate, having first recorded the grounds of his belief, may cause a search to be made of the house or premises occupied by such person or in which such Magistrate has reason to believe such arms, ammunition or military stores are or is to be found, and may seize and detain the same, although covered by licence, in safe custody for such time as he thinks necessary.

The search in such case shall be conducted by, or in the presence of, a Magistrate, or by, or in the presence of, some officer specially empowered in this behalf by name or in virtue of his office by the President of the Union.

26. The President of the Union may at any time order or cause to be seized any arms, ammunition or military stores in the possession of any person, notwithstanding that such person is licensed to possess the same, and may detain the same for such time as he thinks necessary for the public safety.

27. The President of the Union may, from time to time, by notification published in the Gazette,—

- (a) exempt any person by name or in virtue of his office, or any class of persons, or exclude any description of arms or ammunition, or withdraw any part of the Union of Burma, from the operation of any prohibition or direction contained in this Act ; and
- (b) cancel any such notification, and again subject the persons or things or the part of the Union of Burma comprised therein to the operation of such prohibition or direction.

28. Every person aware of the commission of any offence punishable under this Act shall, in the absence of reasonable excuse, the burden of proving which shall be upon such person, give information

of the same to the nearest police-officer or Magistrate, and

every person employed upon any railway or by any public carrier shall, in the absence of reasonable excuse, the burden of proving which shall lie upon such person, give information to the nearest police-officer regarding any box, package or bale in transit which he may have reason to suspect contains arms, ammunition or military stores in respect of which an offence against this Act has been or is being committed.

29. No proceedings shall be instituted against any person in respect of an offence punishable under section 19, clause (f), without the previous sanction of the District Magistrate.

30. Where a search is to be made under the Code of Criminal Procedure, in the course of any proceedings instituted in respect of an offence punishable under section 19, clause (f), such search shall, notwithstanding anything contained in the said Code, be made in the presence of some officer specially appointed by the President of the Union in this behalf, and not otherwise.

31. * * * *

32. The President of the Union may from time to time, by notification in the Gazette, direct a census to be taken of all fire-arms in any local area, and empower any person to take such census.

On the issue of any such notification, all persons possessing any such arms in such area shall furnish to the person so empowered such information as he may require in reference thereto, and shall produce such arms to him if he so requires.

Any person refusing or neglecting to produce any such arms when so required shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

33. No proceeding other than a suit shall be commenced against any person for anything done in pursuance of this Act, without having given him at least one month's previous notice in writing of the intended Proceeding and of the cause thereof, nor after the expiration of three months from the accrual of such cause.