

The Arms Act, 1959

E – Content

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Hi friends, I am Krishna Kumar, Assistant Professor at School of Law, Dr. Harisingh Gour Vishwavidyalaya, Sagar (M.P.).

Today, in this lecture we will have an overview of the Arms Act , 1959 and the Arms Rules, 1962.

Module I – Introduction

As we all know that fire-arms are to be regulated. Restrictions and safeguards in relation to the possession of and control over fire-arms and ammunition, though irksome to a degree, will ever be called for, in the interest of the State, for maintenance of law and order in general and for ensuring public peace and security in particular.

At the same time, with rapid strides in education and industrialisation, the social order in the modern set-up requires that the rigours of the law of arms, particularly fire-arms, should be softened and liberalized so that peace loving citizens should have the satisfaction of having the capacity of using a licensed fire-arm for sport, personal security and self-defence when an emergent situation cannot be controlled except by the use of a fire-arm within statutory limits. With these objects, The Arms Act, 1959 (Act No. 54 of 1959) was enacted by the parliament to consolidate and amend the law relating to the arms and ammunition with the provision that it shall come into force on such date as the Central Government may by notification in official gazette appoint which has been fixed as 01 / 10 / 1962 and on such date the Act came into operation.

The main provision of the Act is to rectify the rigours of the Indian Arms Act, 1878 and rules made thereunder which were intended by the British rulers to disarm the entire nation and continue to make it difficult for law-abiding citizens to possess firearms even for self-defence whereas terrorist, mercenaries, dacoit gangs and other anti-social, pro-imperialist or anti-national elements were using not only civilian weapons but also bombs, hand-grenades, bren-guns, stenguns, .303 bore service rifles and revolvers of military specifications for perpetrating heinous or rabid crimes against society and the state.

Module II – Definitions

The Arms Act, 1959 extends to the whole of India. The Act also defines certain words which bear specific meaning of those words used in the Act. So, we should have a look on the definitions given in the Act itself.

Section 2 (b) “Ammunition” means ammunition for any firearm and includes –

- (i) Rockets, bombs, grenades, shells and other like missiles,
- (ii) Articles designed for torpedo service and submarine mining,
- (iii) Other articles containing or designed or adapted to contain, explosive, fulminating or fissionable material or noxious liquid, gas or other such thing, whether capable of use with firearms or not,

- (iv) Charges for firearms and accessories for such charges,
- (v) Fuses and friction tubes,
- (vi) Parts of, and machinery for manufacturing, ammunition, and
- (vii) Such ingredients or ammunition as the Central Government may, by notification in the official Gazette, specify in this behalf:

Section 2 (c) “arms” means articles of any description designed or adapted as weapon for offence or defence, and includes firearms, sharpedged and other deadly weapons, and parts of, and machinery for manufacturing, arms but does not include articles designed solely for domestic or agricultural uses such as lathi or an ordinary walking stick and weapons incapable of being used otherwise than as toys or of being converted into serviceable weapons;

Section 2(e) “firearm” means arms of any description designed or adapted to discharge a projectile or projectiles of any kind by the action of any explosive or other forms of energy, and includes, -

- (i) Artillery, hand-grenades, riot-pistols or weapons of any kind designed or adapted for the discharge of any noxious liquid, gas other such thing,
- (ii) Accessories for any such firearm designed or adapted to diminish the noise or flash caused by the firing thereof,
- (iii) Parts of, and machinery for manufacturing, firearms, and
- (iv) Carriages, platforms and appliances for mounting, transporting and serving artillery:

Section 2(h) “Prohibited ammunition” means any ammunition contained or designed or adapted to contain, any noxious liquid, gas or other such thing, and includes rockets, bombs, grenades, shells, articles designed for torpedo service and submarine mining and such other articles as the Central Government may, by notification in the official Gazette, specify to be prohibited ammunition;

Section 2 (i) “prohibited arms” means –

- (i) Firearms 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 the magazine containing the missile is empty, or

- (ii) Weapons of any description designed or adapted for the discharge of any noxious liquid, gas or other such thing, and includes artillery, anti-aircraft and anti-tank firearms and such other arms as the Central Government may, by notification in the official Gazette, specify to be prohibited arms;

Module III – Acquisition, Possession, Manufacture, Sale, Import, Export and Transport of Arms and Ammunition

The acquisition, possession, manufacture, sale, import, export and transport of arms and ammunitions is regulated through licences in accordance with the Arms Act, 1959. Therefore, in order to carry and possess firearms a valid license is required the requirement for valid license are that the person should be above 21 years of age and must not be convicted of any offence or must not have served any term under Chapter VIII of Cr.P.C., it also provides that no one can hold more than three firearms. The firearms must be a smooth bore gun having barrel not less than 20 inches for the purpose of protection, sports and crop protection or .22 bore rifle or an air rifle to be used for practicing the target by a member of a rifle club recognized by the government, thus the possession of guns for purpose of collection is not allowed. Even the license is necessary for the manufacture, sale, import or export, etc. of arms and ammunition.

The law provides for wide flexibility and discretion to Licensing Authorities in grant or denial of licences. While these provisions were kept on the books, under the assumption that they would be used judiciously and towards serving public interest, the real life experiences of applicants belie this assumption! For e.g. in many jurisdictions the Licensing Authority perforce requires all applicants to submit for review property papers and income tax returns. This, despite the fact that the Arms Act, 1959 makes it very clear in section 14(2) that: “(2) The licensing authority shall not refuse to grant any licence to any person merely on the ground that such person does not own or possess sufficient property.”

Section 13 makes provision for the grant of licences which are to be issued for a period of three years or for a shorter period on the payment

of the fees and conditions as are specified in The Arms Rules, 1962, unless revoked earlier in accordance with Section 15.

Section 13 recognises a right to a licence and makes provision for the grant of licenses. Upon application made to the licensing authority, the licensing authority is bound to grant a licence for acquiring and possessing a fire-arm or ammunition by a citizen of India in respect of a gun used for protection or sport or for crop protection or a rifle to be used for target practice by a member of a Rifle Club or a Rifle Association licensed or recognized by the Central Government. It is obligatory upon the licensing authority to grant a license also where an applicant for a licence satisfies the licensing authority that he has good reasons for obtaining it. Apart from the cases where the fire-arm is required for protection or sport or crop protection or for target practice in a Rifle Club or Rifle Association, any one is entitled to it if he has good reason for obtaining it. There must be good reason for obtaining the licence, and that condition regulates the grant of a licence. The requirement has been imposed to prevent abuse of the right by members of the public. Nonetheless as soon as the condition is satisfied the grant is obligatory and it is not open to a licensing authority to refuse a licence arbitrarily.

Section 14 of the Act specifies some considerations on the strength where of “the licensing authority shall refuse to grant” a licence. These considerations, in short, are-

- (a) licence applied for being in respect of any prohibited arms or prohibited ammunition;
- (b) the applicant believed to be disqualified from acquiring, having in his possession or carrying any arms or ammunition;
- (c) the applicant being of unsound mind;
- (d) the applicant is “for any reason unfit for a licence under this Act”;
or
- (e) considerations of “the security of the public peace or for public safety” might justify a refusal to grant such a licence.

Section 17 talks about the variation, suspension and revocation of licences by the licensing authority, even he may suspend the licence by order in writing recording reasons as are mentioned in Section 17 (3). In

the same section the power is also provide to the Central Government to suspend or revoke or direct any licensing authority to suspend or revoke all licences granted under the Act throughout India or any part thereof, by an order in official Gazette with regard to it.

Module IV – Powers and Punishments

Chapter IV of the Act which ranges from Section 19 to Section 24-B, deals with the powers and procedures of the police officers or any other officer specially empowered in that behalf by the Central Government, to demand the production of licence or in absence of it or on refusal to produce or to show the licence, has the power to seize such arm or ammunition. Section 19 deals with the deposit of the arms etc., the possession of which ceases to be unlawful due to the expiration of the duration or suspension or revocation of licence or by issue of notification under Section 4, to the officer in-charge of the nearest police station or with licensed dealer under the conditions prescribed in such regard. The magistrate under this chapter has the power to make the search and seizure of house or premises vessels, vehicles for arms, etc. The chapter also empowers the Central Government to prohibit the possession and carrying of the arms, etc. in the disturbed areas, public places, etc.

The unlawful manufacturing and selling of firearms attracts punishment of 3 years which may extent up to 7 years imprisonment along with fine, punishment of possession of prohibited arms may extend from 5 to 10 years with fine, one who possess the arms, etc., with intent to use them for unlawful purpose is punishable with imprisonment for a term which may extend to seven years with fine, One who causes death by using such weapons shall be punished with death penalty, one who knowingly buys arms from the person who is not authorized to sell them may face imprisonment upto 3 years with fine.

Module V – Miscellaneous

The arms Act, 1959 also deals with the power of the Central Government to :

- 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;
- 2) as often as may be, cancel any such notification and again subject, 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;
- 3) direct a census to be taken of all firearms in any area and empower any officer of Government to take such census;
- 4) 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, 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;

make rules for any or all of the matters as : (a) the appointment, jurisdiction, control and functions of licensing authorities, 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 within 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; (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 which is to be, or may be, prescribed.

Module VI – The Arms Rules, 1962

The Arms Rules are framed by the Central Government in exercise of the powers conferred by Sections 5,9,10,11,12,13,16,17,18,21,41, read with Section 44 of the Arms Act, 1959. The rules covers rules regarding the classification of arms or ammunition, the licensing authority and the forms of licences and the appeals with regard to them. These rules also provides for the reasons to be communicated to the appellate authority in certain cases, restriction in granting licences for acquisition, possession or carrying of arms or ammunitions, the restrictions imposed by the Central Government. These rules also deal with the rules relating to the import, export, transport, manufacture, conversion, shortening, repair, test sale etc. of the arms and ammunition, to deposit of arms and ammunition for safe custody under circumstances specified in Section 21 and otherwise.

These rules also provide for granting, validation and renewal of licences and their requisite fees. They also provides for the classification of arms and ammunitions, licences and their acquisition, possession, export , import, etc. and the forms for their acquisition, possession, export , import, etc. under Schedule I, II, and III respectively.

The Central Government also enacted the Arms Rules, 2016 amending the rules of 1962, thereby making these rules workable in the contemporary society.

Module VII – Conclusion

The Arms Act, 1959 has been amended from time to time as :

1. The Arms (Amendment) Act, 1971 (55 of 1971).
2. The Arms (Amendment) Act, 1983 (25 of 1983).
3. The Arms (Amendment) Act, 1985 (39 of 1985).
4. The Arms (Amendment) Act, 1988 (42 of 1988).

The Arms Act tries to control and prohibit the use of illegal arms and ammunitions. The provisions made are strict so as to curb menace of unregistered and illegally made country arms but their implication is not taking place in a proper way and some of the provisions need to be stricter like imposition of fines for the protection of the fundamental right as Right to life which includes the right to protect one's life and in cases of peril that arms carried may prove a vital element to one trying to save his life.

So, friends, Hope that you will have and idea about the regulation of arms and ammunition in the society.

Thank You

Objective of the Topic

As we all know that fire-arms are to be regulated. Restrictions and safeguards in relation to the possession of and control over fire-arms and ammunition, though irksome to a degree, will ever be called for, in the interest of the State, for maintenance of law and order in general and for ensuring public peace and security in particular.

The acquisition, possession, manufacture, sale, import, export and transport of arms and ammunitions is regulated through licences in accordance with the Arms Act, 1959.

Summary of the topic

This topic presents an overview of the regulation of the arms and ammunitions in India through the Arms Act, 1959 and the Arms Rules of

1962 and 2016. This lecture also defines some of the concepts used in the Act. It also deals with the acquisition, manufacture, sale, import, export and the transport of the arms and ammunitions and also discusses the provisions relating to the granting, suspension and renewal of licences. It also discusses the powers and the punishments prescribed under the Act. Lastly, the lecture deals with the content of the arms rules as enacted in 1962 and later amended in 2016.

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Q1. What is the last date for generation of UIN and what is its importance?

Ans. The last date of obtaining UIN for all types of licences has been extended up to 1.4.2017 by the Arms Rules, 2016. UIN is to be issued to a licensee and not to a licence. All types of licensees including Individuals, Institutions (including banks), arms dealers, manufacturers, gun smiths, rifle and sports shooting associations, firing ranges etc. are required to have UIN. All licensees are required to contact their Licensing Authority for getting UIN by the stipulated date.

Q2. What is the position for multiple licences issued to individuals?

Ans. As per rule 15 of the Arms Rules, 2016, any existing licensee holding multiple licences in Form III shall on or before 1.4.2017, make an application for grant of a single licence in respect of all the firearms held by him under his UIN, to the concerned licensing authority.

Q3. What is the time limit for acquisition of a firearm (GPP) on obtaining a new licence or on sale of an already held firearm?

Ans. A time period of 2 years has been prescribed in rule 18 of the Arms Rules, 2016 in both the situations, which is extendable by another one year.

Frequently Asked Questions (FAQs)

Q1. What are the provisions for grant of licences to Individuals? Have any new restrictions been imposed on grant of licences in the Arms Rules, 2016?

Ans. The Arms Rules, 2016 have not brought in any new restrictions on grant of licences to individuals. The provisions for grant of licences as contained in the Arms Act, 1959 are extracted hereunder –

The Arms Act, 1959, Section 13(3) The licensing authority shall grant –

(a) a licence under Section 3 where the licence is required-

(i) by a citizen of India in respect of a smooth bore gun having a barrel of not less than twenty inches in length to be used for protection or sport or in respect of a muzzle loading gun to be used for bona fide crop protection:

Provided that where having regard to the circumstances of any case, the licensing authority is satisfied that a muzzle loading gun will not be sufficient for crop protection, the licensing authority may grant a licence in respect of any other smooth bore gun as aforesaid for such protection, or

(ii) in respect of a point 22-bore rifle or an air rifle to be used for target practice by a member of a rifle club or rifle association licensed or recognized by the Central Government;

(b) a licence under section 3 in any other case or a licence under section 4, section 5, section 6, section 10 or section 12, if the licensing authority is satisfied that the person by whom any licence is required has a good reason for obtaining the same.

The Arms Rules, 2016

The obligations of the licensing authorities for grant of licences for permissible category of arms and ammunition have been brought in rule 20(3) of the Arms Rules, 2016, namely—

(3) For grant of a licence for the permissible arms or ammunition specified in category III in Schedule I, and without prejudice to the provisions contained in clause (a) of subsection (3) of section 13, the licensing authority, based on the police report and on his own assessment, may consider the applications of –

(a) any person who by the very nature of his business, profession, job or otherwise has genuine requirement to protect his life and/or property; or

(b) any dedicated sports person being active member for the last two years, of a shooting club or a rifle association, licensed under these rules and who wants to pursue sport shooting for target practice in a structured learning process; or

(c) any person in service or having served in the Defence Forces, Central Armed Police Forces or the State Police Force and has genuine requirement to protect his life and/or property.

Perusal of the above provisions amplify that no new restrictions have been introduced for grant of licences to individuals.

Q2. What is the last date for generation of UIN and what is its importance?

Ans. The last date of obtaining UIN for all types of licences has been extended up to 1.4.2017 by the Arms Rules, 2016. UIN is to be issued to a licensee and not to a licence. All types of licensees including Individuals, Institutions (including banks), arms dealers, manufacturers, gun smiths, rifle and sports shooting associations, firing ranges etc. are required to have UIN. All licensees are required to contact their Licensing Authority for getting UIN by the stipulated date.

Q3. What is the position for multiple licences issued to individuals?

Ans. As per rule 15 of the Arms Rules, 2016, any existing licensee holding multiple licences in Form III shall on or before 1.4.2017, make an application for grant of a single licence in respect of all the firearms held by him under his UIN, to the concerned licensing authority.

Q4. Who will grant the All India Validity?

Ans. The District Magistrate may grant All India Validity for the following categories of licensees:

- a) Union Ministers or Member of Parliament;
- b) Personnel of Defence Forces and Central Armed Police Forces;
- c) Officers of All India Services;
- d) Officers in the Government or Government Sector Undertakings or Public Sector Undertakings with liability to serve anywhere in India;
- e) Dedicated sports persons and the sports persons specified in serial numbers (1) to (4) of the table in sub-rule (2) of rule 40.

In other cases, the powers to grant All India Validity are with the State Government who will decide on the application forwarded by the concerned District Magistrate.

Q5. What is the time limit for acquisition of a firearm (GPP) on obtaining a new licence or on sale of an already held firearm?

Ans. A time period of 2 years has been prescribed in rule 18 of the Arms Rules, 2016 in both the situations, which is extendable by another one year.

Q6. What changes have been brought for transporters of arms and ammunition in the Arms Rules, 2016?

Ans. Arms Rules, 2016 have introduced new licensing requirements for transporters of arms and ammunition, who have to obtain a licence in Form XIV of the rules. However, these provisions are applicable for bulk transportation of arms and ammunition exceeding 100 firearms or ammunition exceeding 50000 cartridges in a single consignment or multiple consignments forming part of a single shipment.

Q7. What are the changes brought in for grant of licences to Arms and Ammunition Dealers?

Ans. The Arms and Ammunition Dealers having been granted licences in Form XI, XII, XIII or XIV shall be issued a composite licence in Form VIII

for Dealer Licence and for Deposit of Arms and Ammunition. The licences are to issued by the State Governments and renewed by the District Magistrates.

The dealers who wish to extend the services of minor or major repairs of firearms shall have to obtain a licence in Form IX or Form IX-A as applicable.

Q8. What is the process of registration with an outside licensing authority in case a licensee shifts his residence?

Ans. As per rule 17 of the Arms Rules, 2016, if a person who holds a licence in Form III changes his place of residence, permanently or temporarily for a period of more than six months, and carries with him the arms covered by the licence, to such new place, he shall immediately, before the expiry of a period of six months, send intimation to the new licensing authority by applying in Form B-1. The said licensing authority will register him within a period of 15 days of the date of application and the UIN of the licensee shall stand activated with the new licensing authority and deactivated with the earlier licensing authority.

The same procedure shall apply if a licensee shifts his place of residence to a different police station under the same licensing authority.

Q9. When the applications for renewal of licences are to filed with the licensing authorities?

Ans. As per rule 24 of the Arms Rules, 2016, an application for renewal of a licence shall be filed in the Form wherein specified at least 60 days prior to the expiry of the licence.

Q10. What are the provisions for grant of licences to legal heirs?

Ans. The provisions for grant of licences are contained in rule 25 of the Arms Rules, 2016. The licensing authority may grant a licence —

(a) after the death of the licensee, to his legal heir; or

(b) in any other case, on the licensee attaining the age of seventy years or on holding the firearm for twenty-five years, whichever is earlier, to any legal heir nominated by him:

Provided that notwithstanding the provisions contained in rule 12 of these rules, the licensing authority may grant a licence to such legal heir if the eligibility conditions under the Act and these rules are fulfilled by the said legal heir and there are no adverse remarks in the police report.

Quiz

- 1) In which year the government framed the latest arms rules?
 - a) 2014
 - b) 2015
 - c) 2016
 - d) 2017

- 2) Which section of The Arms Act, 1959 defines ammunition?
 - a) Section 2 (a)
 - b) Section 2 (b)
 - c) Section 2 (c)
 - d) Section 2 (d)

- 3) What should be the age for acquiring a valid licence under Section 13?
 - (a) 12 years
 - (b) 15 years
 - (c) 18 years
 - (d) 21 years

- 4) Which section of The Arms Act makes provision for the granting of licence?
 - (a) Section 13
 - (b) Section 14
 - (c) Section 15
 - (d) Section 16

- 5) Which of the following chapter of The Arms Act, 1959 provides for punishments?

- (a)Chapter I
- (b)Chapter II
- (c)Chapter III
- (d)Chapter IV

Ans. 1. (c) 2. (b) 3. (d) 4. (a) 5. (d)

Assignment

Q1. Which are the Application Forms for grant of different types of licences?

Q2. Whether time limits have been defined for getting different services under the new rules?

Q3. What are the documents to be furnished along with an application for grant of a licence in Form A-1?

Q4. What is contained in the Arms Rules, 1962?

Q5. What punishments are prescribed under The Arms Act 1959?

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2. The Arms Rules, 1962
3. The Arms Rules, 2016
4. The Explosives Act, 1884

Glossary

Artillery – Large calibre weapons, such as cannon, howitzers, missile launchers, that are operated by crews.

Brenguns - a submachine gun operated by gas pressure.

Ensure - To make sure or certain.

Fulminate - To explode or detonate.

Irksome - causing annoyance, weariness, or vexation.

Mercenaries - motivated solely by a desire for monetary or material gain
rabid Raging; uncontrollable.

Revocation - the act or an instance of revoking.

Shells – hollow structures in the form of thin curved slabs, plates or membranes that are self – supporting. They are called form – resistant structures because they are shaped according to the loads they carry.

Stenguns – a 9 millimeter gun used chiefly by British and Commonwealth forces during World War II and Korean War.

Torpedo – a cigar – shaped, self propelled under water projectile launched from a submarine, aircraft, or ship and designed to detonate on contact with or in the vicinity of a target.

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