

I assent.

(L.S.)

EDWARD FENECH ADAMI  
President

2nd August, 2005

**ACT No. XIV of 2005**

*AN ACT to repeal and re-enact with amendments the law relating to arms.*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the Board of the same as follows:—

1. The title of this Act is the Arms Act, 2005, and this Act shall come into force on such date or dates as the Minister responsible for the Police may by notice in the Gazette appoint, and different dates may be so appointed for different provisions or for different purposes of this Act. Short title and commencement.

**PART I - GENERAL**

2. In this Act, unless the context otherwise requires: - Interpretation.

“airgun” means a short firearm or long firearm respectively, the discharge of which is made by means of air or gas compression;

“ammunition” means the assembled components of a cartridge, namely the shot or bullet, case primer and propellant for any firearm, but excludes pellets for an airgun, inert ammunition and ordinance;

“ammunition with expanding projectiles” means any ammunition that is designed or adapted to expand on impact;

“ammunition with explosive projectiles” means ammunition where the projectile contains a charge which explodes on impact, whether intended or designed for military use or otherwise;

“ammunition with incendiary projectiles” means ammunition for where the projectile contains a chemical mixture which bursts into flame on contact with the air or on impact, whether intended or designed for military use or otherwise;

“antique weapon” means any arm proper manufactured before 1<sup>st</sup> January 1946 or such later year as the Minister may from time to time prescribe;

“armour piercing projectile” means ammunition for military use where the projectile is jacketed and has a penetrating hard core;

“arms proper” shall have the same meaning assigned to it by article 64 of the Criminal Code and shall include a firearm as defined in this article;

“artistic weapon” means an arm proper embellished or designed in a manner which goes beyond its pure functional requirements and which has been recognised as such by the Board;

“automatic firearm” means a firearm which reloads automatically each time a round is fired and which can fire more than one round with one pull on the trigger;

“Board” means the Weapons Board constituted and appointed in accordance with article 49 of this Act;

“collector” means a person who is licensed as such in terms of article 11 of this Act;

“club” means an organisation that organises and carries out target shooting activities and is recognized as such by the Board and is licensed by the Commissioner for the purposes of this Act;

“Commissioner” means the Commissioner of Police;

“deactivated firearm” means a firearm which has been rendered permanently unfit for use and certified as such as set out in this Act;

“dealer” means any person whose trade or business consists wholly or in part in the purchase, sale, importation, export, display, assembly, maintenance, storage, transportation, shipping, distribution, delivery, exchange or hiring of any firearm or arms proper including ammunition, and/or in the possession with intent

to sell, import, export, display, assemble, maintain, store, transport, ship, distribute, deliver, exchange and/or hire of any firearm or arms proper including ammunition;

“firearm” includes a firearm of any description and any other kind of gun from which any shot, bullet or missile can be discharged and the barrel, breech and receiver thereof;

“gunpowder” includes gunpowder, blackpowder, smokeless gun powder and all other types of propellants;

“gunsmith” means any person whose trade or business consists wholly or in part in making, repairing, restoring, manufacturing, altering, modifying or converting firearms;

“historical weapon” means any arm proper used in an important historical event or by any historical personage and classified as such by the Commissioner on the advice of the Board;

“long firearm” means any firearm with a barrel which is more than thirty centimetres in length or with an overall length of more than sixty centimetres;

“martial art weapon” means any weapon used in any of the martial arts requiring registration in terms of the provisions of this Act;

“Minister” means the Minister responsible for the Police;

“paint ball activity” means any activity in which special purpose weapons using compressed air or gas, specifically designed to discharge frangible projectiles containing a colour dye used for target marking or designation;

“possession” shall include carrying, holding, using, controlling and/or having effective control of;

“premises” includes any appurtenance thereof;

“rare weapon” means any arm proper which is no longer manufactured and the availability of which is so limited that it makes it rare, including patent experimental models, certified as such by the Commissioner after consultation with the Board;

“repeating firearm” means a firearm which, after a round has been fired, is designed to be reloaded from a magazine or cylinder by means of a manually-operated action;

“resident” means an individual ordinarily resident in a country, and a person shall be deemed to be ordinarily resident in the country indicated by the address appearing on an official document establishing his place of residence, such as a passport or an identity card;

“semi-automatic firearm” means a firearm which reloads automatically each time a round is fired and which can fire only one round with one pull on the trigger;

“short firearm” means any firearm with a barrel which is not more than thirty centimetres long or with an overall length of not more than sixty centimetres;

“single-shot firearm” means a firearm with no magazine which is loaded before each shot by the manual insertion of a round into the chamber or loading recess at the breech of the barrel;

“sporting activity” includes hunting, target shooting, and paintball activity;

“target shooting” means any sport in which shooting sessions involving firearms are held at approved indoor or outdoor ranges but excludes hunting, as set out in this Act.

## **PART II – PROHIBITED ARMS PROPER AND AMMUNITION**

General prohibition.

**3.** Without prejudice to the provisions of this Act,

(a) the acquisition, possession for whatever purpose, keeping or importation of the arms proper and ammunition referred to in Schedule I to this Act shall be prohibited; and

(b) the manufacture, disposal under whatsoever title, hiring, offering for sale or hire, or the lending or giving to a person of any of the arms proper listed in Schedule I shall also be prohibited.

Special authorization.

**4.** Notwithstanding the provisions of article 3, the Commissioner may, in special circumstances, grant a licence for the acquisition, possession or importation of any arms proper or ammunition listed in Schedule I, if in his absolute discretion he considers that the issue of such licence is necessary in the public interest or for the protection of life and public security.

### PART III - LICENCES

#### Licence to keep, possess, import or export firearms and ammunition

5. (1) Without prejudice to the other provisions of this Act, no person shall keep in any premises or have in his possession, under his control or carry outside any premises or appurtenances any firearm or ammunition listed in Schedule II to this Act, without a licence under this Act.

Licence to keep, possess, export or import firearms, weapons and ammunition.

(2) Without prejudice to the provisions of the Customs Ordinance or any other law, no person shall, without a licence or permit from the Commissioner, import or bring into or export from Malta any firearm or ammunition as is mentioned in the preceding sub-article:

Cap. 37.

Provided that when a firearm arrives in Malta no person shall take possession thereof without prior approval by the Commissioner:

Provided further that the Commissioner may grant a temporary permit for the export and, or importation of firearms and ammunition as are mentioned in sub-article (1) under such conditions as he may deem fit.

(3) (a) An application for a licence under this Part to keep in any premises firearms or ammunition shall specify the premises where the said firearms and ammunition are to be kept and the licence shall only be granted on condition that the approved firearms and ammunition are kept locked safely and separately within such premises and that such fire arms be kept unloaded.

(b) A change in the approved premises shall be notified to the Commissioner within fifteen days prior to the date of such change.

(4) (a) Saving the provisions of article 11(1), a licence to a person to have in his possession, under his effective control or to carry outside any premises or appurtenances any firearm, or ammunition under article 5 (1) shall only be granted in order that the said firearm or ammunition be used for sporting activities; and

(b) a licence to import or bring into Malta any firearm or ammunition under article 5 (2) shall only be granted in order that the said firearm or ammunition be used for sporting activities:

Provided that before issuing any licence as aforesaid for the purpose of target shooting, the Commissioner shall ensure that shooting facilities according to law are available in Malta for that purpose and may moreover restrict the number of firearms which may be licensed as aforesaid in the name of any one person.

Provided further that where a licence has been granted by the Commissioner in relation to a sporting activity, such licence shall be without prejudice to any other requirement or condition imposed under any other law.

(5) The Commissioner may, in special circumstances grant a licence to any person to keep a firearm listed in Schedule II and III for purposes other than sporting activities if in his absolute discretion he considers that the issue of such licence is necessary in the public interest or for the protection of the life and security of persons.

(6) Any firearm licensed under this article for target shooting:-

(a) may only be carried during a sporting activity in a licensed shooting range or facility, and to and from such range or facility within such period of time, as may be prescribed, before and after such sporting activity;

(b) shall be kept unloaded and secure when being carried to and from a shooting range or facility as aforesaid.

(7) Where any voluntary offence under any law other than this Act is committed by the holder of a licence under this Act by means of any firearm licensed under this Part the punishment upon conviction for the offence shall be increased by one to two degrees unless the law already provides for the aggravation of the punishment where the offence is committed by a firearm or arm proper.

### **Licence to keep or carry arms proper other than firearms**

Licence to carry knives.

**6.** Saving the provisions of article 8 no person shall carry outside any premises or appurtenance thereof, a knife or cutting or pointed instrument of any description without a licence or permit from the Commissioner.

Exemptions to article 6.

**7.** The provisions of article 6 shall not apply with respect to any:-

(a) penknife with a blade protruding not more than 8 centimetres from the handle and which may reasonably be

considered to be carried for the purpose of making such use of it as is the use for which a penknife is intended;

(b) knife used by any person for the purpose of the exercise of his trade or for the purpose of his studies, or for diving purposes where, having regard to the time, place, and other circumstances, the court is satisfied that such knife was actually carried for such purpose.

**8.** Notwithstanding the other provisions of this Act or of any other law, no licence shall be required for the purpose of possessing or keeping inside any premises a knife or a cutting or pointed instrument not being a prohibited weapon in terms of article 3 or for acquiring such a knife or instrument for the same purpose. Edged weapons inside premises.

### **Licence to operate indoor and outdoor ranges**

**9.** No person shall operate a target shooting range without a licence issued by the Commissioner who may issue such a licence after consultation with the Board. Licence for shooting range.

**10.** (1) The Commissioner may grant a permit in respect of a temporary *ad hoc* shooting range on the recommendation of the Board. Permit for *ad hoc* range.

(2) The Minister may make regulations in respect of the licensing of ranges.

### **Licence to acquire, keep or possess antique, artistic, historic or rare weapons**

**11.** (1) No person may possess for collection purposes any firearm or arms proper which is antique, artistic, historic or rare, whether or not considered to be a prohibited firearm or weapon under Schedule I, unless he is in possession of the necessary licence: Licence for Collector

Provided that no licence shall be issued for item 1 in Part I of Schedule I to this Act unless such item is inert:

Provided further that any person licensed as a collector under this article may be authorised under licence to keep a number of firearms, to be prescribed under this Act, as those listed in Schedule II, even though they are not deemed to be antique, artistic, historic or rare.

(2) The Commissioner may issue a licence under sub-article (1) to any person upon the recommendation of the Board, provided that such person:

(a) satisfies the requirements of article 23 of this Act;

(b) has knowledge of the history and characteristics of such firearms or weapons and of the ammunition used with respect thereto;

(c) has complied with such other requirements as may be prescribed by regulations regarding such knowledge as aforesaid and regarding the secure storage of such weapons, firearms and ammunition.

(3) Any licence issued under this article shall provide for the inspection by any police officer not below the rank of Inspector, or by any other police officer as may be authorised by him, of the firearm or ammunition and of the premises in which such firearm and ammunition is to be kept, which inspection shall be conducted according to law and in accordance with regulations as may be prescribed.

Aggravated  
Offences

**12.** Where any offence of a voluntary nature under any law other than this Act is committed by a licensee under this Act by means of any firearm licensed under article 11 the punishment upon conviction for the offence shall be increased by one to two degrees unless the law already provides for the aggravation of the punishment where the offence is committed by a firearm or arm proper.

Transport or display  
of weapons.

**13.** (1) A collector shall not transport or publicly display his weapon collection or part thereof without an *ad-hoc* permit from the Commissioner under such terms and conditions as the Commissioner may deem fit.

(2) A licence under sub article (1) shall not be granted unless the applicant proves to the satisfaction of the Commissioner that such transport or display is solely intended for exhibition or re-enactment purposes, and the necessary safety and security measures are implemented.

### **Licence to act as dealers in arms proper**

Licence to dealer.

**14.** A person shall not carry out the trade or business of a dealer without a licence issued by the Commissioner after consultation with the Board provided that such person:

(a) satisfies the requirements of Article 23 under this Act;

(b) satisfies the conditions laid down in Part V of this Act and satisfies the Commissioner of his private and professional integrity;

(c) where the applicant is a legal person, the Commissioner must be satisfied of the private and professional integrity of its directors, shareholders and any other persons who exercise direction or control over the legal person. Any transfer of shares whether *inter vivos* or *causa mortis* and, or appointment of directors shall require the approval of the Commissioner;

(d) has complied with such other requirements as may be prescribed by regulations or by the conditions of such licence concerning knowledge about and secure storage of such weapons, firearms and ammunition.

**15.** (1) Every person licensed under this section shall keep a register showing the movement of any arm proper and ammunition and shall, on receiving or disposing of, under any title whatsoever, any arm proper or ammunition, for whatever reason, make or cause to be made an entry in the register specifying:

Register to be kept by dealer.

(a) the name, surname, identity card number, occupation and place of residence of the person from whom the arms proper or ammunition were received or to whom they are to be delivered;

(b) the number or quantity of arms proper or ammunition and the date of their receipt or disposal;

(c) the description of the arms proper or ammunition, and the type, make, model, calibre and serial number of any arm proper and any modification thereto;

(d) the licence number of the person to whom the arm proper or ammunition is transferred.

(2) The licensee shall retain and conserve the register for as long as he so remains licensed, after which he shall be required to deposit the said register with the Commissioner which register shall, on the date of deposit, be duly signed by the licensee and countersigned by the Commissioner or any officer authorised by him.

(3) Any police officer may at all reasonable times demand inspection of the register, inspect any premises and stores of any dealer, and check the entries above mentioned, in order to take account of the

stock in hand, and to ensure compliance with the duties and obligations of the dealer under this article.

### **Licence to act as a gunsmith**

Licence to  
gunsmith.

**16.** (1) A person shall not carry out the trade or business of a gunsmith without a licence issued by the Commissioner after consultation with the Board.

(2) A licence under this article may only be issued if the conditions provided in paragraphs (a) to (d), both inclusive, of article 14 have been satisfied.

Register to be kept  
by gunsmith.

**17.** (1) Every person licensed under Article 16(1) shall keep a register showing the movement of arms proper and ammunition and shall, on receiving or disposing under any title whatsoever of any arms proper or ammunition, for whatever reason, make or cause to be made an entry in the register specifying the details laid down in paragraphs (a) to (d) both, inclusive, of article 15(1).

(2) The provisions of sub-articles (2) and (3) of article 15 shall *mutatis mutandis* apply in respect of a licence issued under article 16(1).

### **Auctioning of arms proper**

Auctioning arms  
proper.

**18.** (1) No auctioneer shall receive for auction any arm proper or ammunition unless the owner thereof has obtained the necessary permit or licence after having informed the Commissioner of such an event, given the details of the person carrying out the auction and the details of the auctioning and satisfied the Commissioner that the arms proper shall be stored or displayed in a secure manner.

(2) The sale by auction of any arm proper or ammunition shall be subject to the buyer having or acquiring the necessary licence or permit under this Act.

(3) Where any arm proper or ammunition as aforesaid has been sold by auction to a person, the auctioneer shall inform the Commissioner of such fact and shall act as a witness on the appropriate form to be submitted by the licensee to the Commissioner for such transfer, licence or permit.

(4) The form shall be submitted to the Commissioner within fifteen days from the end of the sale by auction and shall contain all details of the proposed transfer and of the proposed purchaser as well as the particulars of the arm proper or ammunition so as to enable their identification, including in particular the type, make, model, calibre and serial number of any firearm auctioned.

(5) Any arm proper or ammunition that is auctioned shall not be delivered to the purchaser before he registers with the Commissioner in terms of article 23 of this Act.

(6) Any arm proper or ammunition left unsold following the auction shall be returned to the licensed owner and the Commissioner shall be informed thereof.

#### **PART IV - DEALING AND TRANSFERS IN ARMS PROPER**

**19.** No dealer or other person shall sell or otherwise deal in, dispose or transfer under any title whatsoever any arms proper or ammunition or keep or expose for sale or otherwise any such arms proper or ammunition without a licence or permit from the Commissioner. Dealings in transfers.

**20.** (1) No dealer or other person shall sell, transfer or deliver under any title whatsoever any arm proper or ammunition to another person who does not hold a licence from the Commissioner for such arm proper or ammunition in terms of this Act. Transfer of firearms, etc. to unauthorised persons.

(2) Any dealer or other person selling, transferring or delivering any arm proper in terms of sub-article (1) shall keep a record of such sale and shall inform the Commissioner of such sale, transfer or delivery as the case may be within fifteen days from its occurrence.

**21.** No dealer or other person shall sell or deliver any knife or other cutting or pointed instrument to any person who is under the age of eighteen years. Prohibition to sell knives to minors etc.

**22.** (1) The Commissioner may authorise the temporary transfer of any arms proper or ammunition in accordance with regulations that the Minister may prescribe from time to time. Temporary transfer of arms proper, firearms etc.

(2) Without prejudice to the generality of sub-article (1) of this article, any person who wishes to transfer any arm proper or ammunition consequent to a change of residence, whether permanent or temporary, may obtain the amendment of such permit or licence provided the licensee gives prior notice of fifteen days of such intended change.

**PART V – GRANT, VALIDITY AND REVOCATION OF LICENCES**

**Applicants for a licence**

Persons who may request a licence.

**23.** Without prejudice to the provisions of this Act, a licence under this Act shall only be issued by the Commissioner to a person who:-

(a) is eighteen years of age or over; and

(b) is a Maltese national or is an exempt person under the provisions of article 4(1)(b) to 4(1)(h), both inclusive, of the Immigration Act; or

Cap. 217.

(c) holds a residence permit in terms of article 7(1) of the Immigration Act; or

(d) enjoys freedom of movement in Malta in terms of the Constitution of Malta; or

(e) is a person as specified in any regulations which the Minister may from time to time prescribe.

Disqualification.

**24.** (1) A licence under this Act shall not be issued to a person who at any time during the five years immediately preceding the date of his application for a licence has:-

(a) been convicted of:-

(i) an offence involving violence or attempted or threatened violence against the person; or

(ii) an offence under this Act; or

(iii) an offence of bodily harm with an arms proper or other instrument or of taking up any arm proper or other instrument against other persons; or

(iv) an offence of theft; or

(v) an offence against the laws relating to the suppression of prostitution, white slave traffic or traffic of persons; or

(vi) an offence relating to trafficking in drugs; or

(vii) any other offence that the Minister may by regulation prescribe from time to time:

Provided that, notwithstanding anything contained in the Probation Act, for the purposes of this paragraph a person shall be deemed to have been convicted even if any of the provisions of the said Act may have been applied in his regard; or Cap. 446.

(b) has a history of:-

(i) drug dependence or abuse; or

(ii) of treatment for mental illness whether in a hospital, mental institute, psychiatric clinic or otherwise, and whether or not such person was confined to such a hospital, institute or clinic where such mental illness is associated with the use by such person of violence, or threatened or attempted use of violence against another person.

(2) Notwithstanding the provisions of sub-article (1) a licence under this Act may be granted by special authority of the Minister in the circumstances provided in those sub-articles. Minister's special authorization.

**25.** (1) A licence may be refused to any person in the interest of public order or in the interest of the safety of such person or of the general public. Refusal to grant a licence.

(2) Any person aggrieved by a decision of the Commissioner taken in accordance with the provisions of sub-article (1) may appeal to the Minister within seven days from the notification in writing of the refusal by the Commissioner and the Minister in the exercise of his functions under this sub-article shall seek the advice of the Board. The decision of the Minister shall be final and conclusive.

### **Special qualifications for certain licences**

**26.** (1) A licence under this Act or under any regulations made thereunder for the possession of any arms proper or ammunition for the purpose of target shooting shall not be granted by the Commissioner unless the applicant satisfies the conditions in Part III of this Act and proves to the satisfaction of the Commissioner that he:- Licence for target shooting.

(a) has successfully completed an approved firearms safety course under the instruction of an approved qualified instructor or an approved competent body and has successfully completed any tests administered by such approved instructor or competent body; and

(b) is registered with a licensed target shooting club, of which he is a practising member.

(2) Any minor:

(a) under the age of eighteen years but not under the age of sixteen years may, with the consent of the person having legal authority over the minor, practice target shooting with airguns, long firearms with smoothbore barrels and muzzle-loading firearms on a licensed range;

(b) under the age of sixteen years but not under the age of fourteen years may, with the consent of the person having legal authority over the minor, practice such shooting on such range with airguns only as may be prescribed under this Act or by a firearm of a different kind referred to in paragraph (a) as may be prescribed by regulations under this Act. The Commissioner may impose such conditions as he may deem fit for the practice of such shooting by such minors.

(3) Any shooting practice by any minor in accordance with the provisions of subarticle (2) shall be carried out under a licence issued by the Commissioner for that purpose and under the direct supervision of a licensed Range Officer who shall be appointed by the club and approved by the Commissioner after consultation with the Board.

(4) Notwithstanding the provisions of any other law, the person giving his consent according to the provisions of subarticle (2), shall be considered for all purposes of law to assume full civil and criminal vicarious responsibility for all voluntary or involuntary acts or omissions of the minor in breach of any of the provisions of this Act.

(5) The Commissioner may at any time cancel the licence issued under this article if the licensee is no longer a practicing member of the club.

(6) Any licence issued under this article may contain restrictions on the movement of such firearms to and from a shooting range as the Commissioner may deem fit.

### **Licence conditions**

**27.** (1) Any licences issued in terms of this Act shall be subject to any conditions as the Commissioner may deem fit to impose, and the licence shall indicate the conditions under which it shall be lawful for the licence holder to acquire, transfer, keep or possess any firearm, arm proper and ammunition. Licence conditions.

(2) All licences issued in terms of this Act are to be accompanied by a policy of insurance for third party risks as required by regulations under this Act.

**28.** A licence authorising the holder to keep an arm proper in any premises shall also specify the description of the arm proper or ammunition for which the licence is issued, including in particular the serial number and the manufacturer's mark of the firearm or other weapon in respect of which the licence is issued. Licence to keep firearms in premises.

**29.** A licence to keep or possess firearms for sporting activities issued under this Act shall entitle the licensee to acquire or possess, in accordance with the provisions of this Act or of any regulations made thereunder, ammunition for the firearm he is authorised to keep or possess under the licence. Purchase of ammunition.

### **Non-transferable nature of licence**

**30.** A licence issued under this Act shall be personal to the licensee and shall not be transferable. Non-transferable nature of licence.

### **Validity, suspension and revocation of licences**

**31.** Unless otherwise provided elsewhere in this Act, every licence granted by the Commissioner under this Act shall be valid for a period not exceeding twelve months to be reckoned from the first day of January of the year in which it is issued and shall expire on the 31<sup>st</sup> December of that year. Validity of a licence.

**32.** Notwithstanding the provisions of this or any other law, the Commissioner may suspend or revoke a licence issued under this Act:- Suspension or revocation of a licence.

(a) where the licensee is convicted of any offence specified in article 24 of this Act; or

(b) where the licensee ceases to satisfy the conditions laid down in Part V of this Act; or

(c) where the licensee contravenes the provisions of this Act or any regulation made thereunder; or

(d) for reasons of public or individual safety to be specifically recorded and duly reported to the Minister.

Power of minister to suspend or revoke licences.

**33.** It shall be lawful for the Minister to suspend or revoke any or all licences issued under the provisions of this Act, where conditions affecting public safety arise in any part of Malta.

### **Grant of temporary licences**

Temporary licences.

**34.** (1) Notwithstanding any other provision of this Act, a temporary licence for sporting activities may be issued by the Commissioner to a non-resident who:

(a) is eighteen years of age or older; and

(b) produces documentary evidence that he is licenced to possess a firearm for sporting activities in his country of residence or is otherwise authorised to keep and carry such firearm in such country; and

(c) proves to the satisfaction of the Commissioner that he is in Malta for a sporting activity:

Provided that the Commissioner may authorise a non-resident who is under the age of eighteen years but not under the age of sixteen years to practice target shooting with airguns, long firearms with smoothbore barrels and muzzle-loading firearms on a licensed range subject to such terms and conditions as the Commissioner may deem fit and the provisions of article 26 shall *mutatis mutandi* apply.

(2) A temporary licence issued under sub-article (1) shall be limited to a sporting activity held in Malta under the provisions of this Act.

## **PART VI - REGISTRATION OR DECLARATION OF WEAPONS**

Arms proper kept by museum.

**35.** (1) A museum or similar institution authorised to exhibit any arms proper or ammunition shall register such firearms, arms proper and ammunition with the Commissioner.

(2) No person shall keep in his possession or in any premises or use any martial art weapon unless such weapon is registered with the Commissioner in accordance with such regulations as may be prescribed by the Minister under this Act.

Registration of martial arts' weapons.

(3) Notwithstanding any other provision of this Act no person shall keep in his possession or in any premises or use any of the firearms listed under Part 1 of Schedule III to this Act unless such possession or intended use has been declared in writing to the Commissioner.

Declaration of certain firearms.

**36.** For the purposes of this Act or of any regulation made thereunder, a firearm shall be deemed to be deactivated if it has been rendered permanently unfit for use by the application of technical procedures which are guaranteed by an official body designated by regulations made under this Act or recognised by such a body in terms of the same regulations:

When firearm is considered as deactivated.

Provided that if such recognition or guarantee is not forthcoming, a firearm shall be presumed to be activated.

## PART VII - HISTORICAL RE-ENACTMENTS

**37.** The use of antique weapons or their replicas in historical re-enactments shall, subject to the prior approval of the Commissioner, be permitted.

Weapons used in historical re-enactment.

**38.** Visitors to Malta shall be allowed to participate in historical re-enactments on production of documentary evidence certifying them as members of a historical re-enactment organisation and in its absence on production of documentation from the local organising body.

Visiting foreigners participating in historical re-enactment.

## PART VIII - GENERAL EXEMPTIONS

**39.** Notwithstanding the other provisions of this Act:-

Exempted persons.

(a) no member of the Armed Forces of Malta, of the Malta Police Force or of the Malta Prison Service shall be guilty of an offence against this Act if such person is in possession of an arm proper or ammunition in the course of his duties, and such arm proper or ammunition belongs to the Government of Malta;

(b) the employees of dealers, gunsmiths or museums are not required to be licenced under this Act for the purpose of

possession, exhibiting, storing, repairing, restoring or maintaining specified arms, firearms or ammunition whilst on the licensed, permitted or recognised premises of their employer but a general licence for the purpose aforesaid as may be provided by the provisions of this Act or of any regulations made thereunder shall be sufficient.

Other exemptions

**40.** The Minister may by regulation exempt other persons from all or any provisions of this Act.

## **PART IX – MISCELLANEOUS**

### **Relevant provisions relating to firearms, weapons and ammunition**

Duty of person coming into possession of firearms.

**41.** Any person acquiring or coming into possession of a firearm or ammunition otherwise than in virtue of a licence, shall immediately notify the Commissioner who shall direct whether such firearm or ammunition shall be kept in the custody of the Police or of the person giving the notice.

Death of licence holder.

**42.** Where a person licensed to keep an arm proper or ammunition dies, his apparent heirs or a custodian, being a person already licensed under this Act and appointed by that person prior to his death, shall be held legally responsible for the said arm proper or ammunition and shall be deemed to be lawfully in possession of the said arm or ammunition by virtue of the licence issued to the person who had died:

Provided that within a period of two years from the death of the person who held the licence the heirs or the custodian, as the case may be, shall:

(a) dispose of the arm or ammunition by transferring it to a person licenced for the purpose; or

(b) deactivate the arm or deliver up the arm or ammunition to the Commissioner:

Provided further that when such arm or ammunition is delivered to the Commissioner, such arm and ammunition shall be sold by auction under such regulations as may be made by the Minister:

So however that the Minister may exempt in whole or in part from the provisions of this article any category of arms proper or ammunition as he may deem fit.

**43.** A licensee whose arm proper or ammunition, with respect to which he is licensed, has been lost, stolen or damaged beyond repair shall report such loss, theft or irreparable damage to the Commissioner within twenty-four hours of discovering such loss, theft or irreparable damage.

Loss, theft or damage to firearm.

**44.** (1) All firearms not being antique, artistic, historical or rare firearms shall be durably marked with a serial number that permits their identification and shall carry the manufacturer's mark.

Identification marks.

(2) Firearms which do not comply with the requirements of sub-article (1) may not be licensed unless they are durably marked according to regulations which may be issued under this Act.

**45.** (1) No person shall, without a licence from the Commissioner, modify or attempt to modify a firearm in a way that the classification of that firearm under this Act or under any regulation made thereunder is changed.

Modification of a firearm.

(2) Any firearm which has been modified in a manner that changes its classification under this Act or regulations made thereunder without the necessary permit shall be deemed an unlicensed firearm.

**46.** Any person who is licensed to acquire trade or possess firearms for use in sporting activities shall keep a proper account of his stock of ammunition in accordance with regulations made under this Act.

Accounting for ammunition.

### **Provisions relating to arms proper**

**47.** (1) Any dealer or any other person licensed to acquire or possess any arm proper or ammunition shall keep the same in his custody in such a way that it shall not fall into the hands of any other person.

Custody of arms proper.

(2) Regulations made under this Act may provide for the custody of firearms, arms proper or ammunition.

**48.** It shall be lawful for any police officer to:-

Search and seizure by Police.

(a) search any person reasonably suspected to be in possession of any arms proper or ammunition without a licence from the Commissioner; and, or

(b) seize any arm proper or ammunition which is acquired, kept, possessed or used in contravention of this Act; and, or

(c) require any person who is known to have come into possession of any arms proper or ammunition, otherwise than in virtue of a licence under this Act, to deliver such arms proper or ammunition to him.

## PART X - WEAPONS BOARD

Weapons Advisory Board.

**49.** (1) There shall be a Board to be known as the Weapons Board.

(2) The Board shall be composed of not less than nine members and not more than eleven members who shall be appointed by the Minister for a term of two years as follows:-

(a) a Chairman;

(b) at least four members from the organisations which represent arms collectors, persons knowledgeable in shooting, sporting activities, or hunting;

(c) at least four members, who shall be public officers or employees from body corporates established by law to represent the government side.

(3) When any vacancy in the Board occurs the Minister shall, as soon as practicable, appoint another person to fill the vacancy in accordance with the provisions of sub-article (2).

(4) The quorum of the Board shall consist of the Chairman and not less than half the members who are eligible to vote, but so long as a quorum is present the Board may act notwithstanding any vacancy among its members.

(5) The Chairman shall have an original vote and where the votes are equally divided, a second or casting vote.

(6) The Minister may also designate a public officer to act as secretary to the Board, but such secretary shall not have any voting rights.

Functions of the Board.

**50.** The functions of the Board shall be those assigned to it under this or any other law. Furthermore it shall have the power to make recommendations and to give its advice to:-

(a) the Commissioner on the importation and release from customs and the registration of antique, historical, rare and artistic weapons;

(b) the Commissioner on the issuing of licences to bona fide weapons collectors, target shooters, range operators and officers, dealers and gunsmiths;

(c) the Commissioner on the issue of permits for ad-hoc events and re-enactments

(d) the Minister in terms of sub article (2) of article 25 of this Act;

(e) the Minister on prescribing any regulations under this Act;

(f) the Minister or the Commissioner on any other matter relevant to the provisions of this Act, whether of its own accord or as may be referred to it by the Minister or the Commissioner.

## **PART XI - OFFENCES AGAINST THE ACT**

**51.** (1) Any person who contravenes article 3 of this Act shall be guilty of an offence and shall be liable on conviction:- Offences against the Act.

(a) if the conviction relates to an arm proper, to imprisonment from three months to ten years;

(b) if the conviction relates to ammunition, to a fine (*multa*) of not less than one hundred liri (Lm100) and not exceeding five hundred liri (Lm500).

(2) Any person who contravenes sub-article (1) of article 5 of this Act shall be guilty of an offence and shall on conviction be liable to imprisonment for a term of not less than three months and not exceeding five years:

Provided that where the conviction relates to possession of arms proper or ammunition within premises, or where the infringement is considered minor by the Court, and having regard to the quantity or quality of the firearms or ammunition the Court is satisfied that they were not so kept for sale or for some other kind of deal or in order to be used unlawfully, the offender shall be liable to a fine (*multa*) of not less than three hundred liri (Lm300) or to imprisonment for a term not exceeding three months or to both such fine and imprisonment:

Provided further that where the conviction under article 5(1) relates to the possession of a firearm outside any premises and the offence was committed because of actual necessity of lawful self-defence or of the lawful defence of another person, the offender shall not be liable to punishment.

(3) Any person who contravenes or fails to comply with sub-article (2) of article 5, sub-article (1) of article 14, or article 19 of this Act, shall be liable on conviction to a term of imprisonment of not less than six months and not exceeding five years.

(4) Any person who contravenes or fails to comply with article 9, sub-article (1) of article 11, article 12, article 15, article 16 and article 17 or 20 of this Act, shall be guilty of an offence and shall on conviction be liable to a fine (*multa*) of five hundred liri (Lm500) or to a term of imprisonment not exceeding three months or to both such fine and imprisonment.

(5) Any person who contravenes or fails to comply with the provisions of article 18 of this Act shall be guilty of an offence and shall on conviction be liable to a fine (*multa*) of one thousand liri or to a term of imprisonment not exceeding one year or to both such fine and imprisonment.

(6) Any person who contravenes, sub-article (6) of article 5, sub-article (1) of article 13 or sub-article (2) of article 22 shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) of one hundred liri (Lm100).

(7) Any person who contravenes article 6 or 21 of this Act shall be guilty of an offence and shall on conviction be liable to a fine (*multa*) of fifty liri (Lm50).

(8) Any person who contravenes any of the provisions of Part VIII of this Act shall be guilty of an offence and shall on conviction be liable to a fine (*multa*) of not less than one hundred liri (Lm100) or to a term of imprisonment not exceeding six months, or to both such fine and imprisonment.

(9) Any person who contravenes any provision of this Act or any regulations made there under shall be guilty of an offence, and unless a severer punishment is provided for under this Act or any other law, shall be liable on conviction to a term of imprisonment not exceeding three months or to a fine *multa* not exceeding three hundred liri (Lm300) or to both such fine and imprisonment.

**52.** Any person holding a licence under any of the provisions of this Act who fails to comply with the terms of the licence or who is in possession of or carries any firearm or ammunition not specified in such licence shall be guilty of an offence against the provisions of those articles and shall be liable on conviction to a fine (*multa*) not less than three hundred liri (Lm300) but not exceeding one thousand liri (Lm1,000), or to imprisonment for a term of not less than three months and not more than five years or to both such fine and imprisonment.

Carrying arms of a different kind from that specified in licence.

**53.** Any person who makes use of any licence issued to any other person under the provisions of this Act, or of any licence which has ceased to be in force, or which has been suspended or revoked under this Act shall be guilty of an offence under this Act and shall be liable on conviction to a fine (*multa*) not less than three hundred liri (Lm300) but not exceeding one thousand liri (Lm1000), or to imprisonment for a term of not less than three months and not more than five years, or to both such fine and imprisonment.

Prohibition to make use of licences belonging to others etc.

**54.** (1) Any person licensed under this Act shall produce any licence or permit when required to do so by a police officer and if the licence is not on his person at the time he shall produce his licence within twenty four hours.

Production of licence.

(2) A licence or permit to keep any firearm shall be always kept on the premises where such firearm is kept.

(3) Whosoever contravenes the provisions of this article shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) not exceeding one hundred liri (Lm100).

**55.** Saving any other provisions of the Criminal Code applicable to the keeping, carrying, use, acquisition or possession of firearms, any person who:-

Possession of firearms during commission of offences.

(a) at the time of committing a crime against the safety of the government or against the person (other than involuntary homicide or involuntary bodily harm) or of theft or injury to property (other than involuntary injury to property); or

(b) at the time of being arrested for a crime,

has on his person any arm proper or ammunition or any imitation thereof, shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding four years, unless he otherwise proves that he was carrying the firearm or arm proper for a lawful purpose.

Forfeiture of arms.

**56.** The Court shall order the forfeiture of any arm proper or ammunition kept or carried, acquired or possessed, imported or exported, sold or transferred in contravention of the provisions of this Act as a consequence of the punishment for such contravention.

Prohibition to hold a licence.

**57.** The Court may cancel or suspend a licence issued under this Act and prohibit a person from holding a licence under this Act for a maximum period of five years where such person is found guilty of an offence under this Act.

Second or subsequent convictions.

**58.** The alternative punishments provided for offences against this Act shall be applied cumulatively in the case of a second or subsequent conviction under the provisions of this Act or in the case of offenders previously convicted of any of the offences referred to in article 24 of this Act.

Offences by a company or body unincorporate.

**59.** The provisions of article 121D of the Criminal Code shall *mutatis mutandis* apply where a person is found guilty of an offence against the provisions of this Act so however that the punishment to which the body corporate shall be liable shall be that of a fine (*multa*) from five hundred liri (Lm500) to ten thousand liri (Lm10,000).

Other criminal proceedings.

**60.** The provisions of this Act shall not affect any criminal proceedings that may be instituted under any other law.

Non-applicability of Probation Act (Chapter 446), and of article 21 of the Criminal Code

**61.** The provisions of the Probation Act and of article 21 of the Criminal Code shall not be applicable to any offence against any of the provisions of this Act.

Competent court.

**62.** Notwithstanding the provisions of article 370 of the Criminal Code, the Court of Magistrates (Malta) and the Court of Magistrates (Gozo) shall be competent to try all offences against this Act.

Court of Magistrates as Court of Criminal Judicature.

**63.** Proceedings against any person for any offence against any of the provisions of this Act shall be taken before the Court of Magistrates (Malta) or Court of Magistrates (Gozo) as a Court of Criminal Judicature in accordance with the provisions of the Criminal Code:

Provided that, notwithstanding the provisions of article 376 (1)(b) of the Criminal Code, the Court shall, at the request of the prosecution or of the accused, take down the evidence given by the witnesses in the manner provided for either in article 391 (6) of the said Code or in any law for the time being in force.

Right of appeal.

**64.** Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of

Criminal Appeal from any judgement given by the Court of Magistrates (Malta) or (Gozo) in respect of proceedings arising out of the provisions of this Act.

## **PART XII - POWER OF THE MINISTER TO MAKE REGULATIONS**

**65.** The Minister may, after consultations with the Board, make regulations to give effect to the provisions of this Act, and without prejudice to generality of the foregoing, such regulations may in particular:

Minister's powers to make regulations

- (a) regulate the temporary transfer of arms proper;
- (b) establish other categories of persons that may qualify for a licence under this Act, and the conditions under which they may so qualify;
- (c) prescribe licence conditions and fees;
- (d) prescribe the application forms for the application, grant, renewal or variation of a licence under this Act;
- (e) regulate the transfer or entry of arms proper and ammunition to or from Malta without need of a licence subject to such terms and conditions as the Minister may deem fit;
- (f) make provision regarding ammunition, gunpowder and primers;
- (g) make provision for the registration of weapons used in the martial art;
- (h) amend the Schedules to this Act;
- (i) prescribe any matter which is required to be prescribed in terms of this Act;
- (j) make provision for the possession, carrying and use of any firearm or ammunition lawfully in the possession of any person before the day of the coming into force of this Act;
- (k) provide for the issue of licences to, or for the recognition of licences or permits of whatever nature issued to, persons who are citizens of a Member State, or for the exemption of such persons from the requirement to acquire a licence under this Act:

Provided that for the purposes of this paragraph “citizen of a Member State” means a citizen of a State, except Malta, which is a party to the Treaty within the meaning of the European Union Act.

### PART XIII - TRANSITORY AND FINAL PROVISIONS

Repeal of the Arms Ordinance, Cap. 66.

**66.** (1) The Arms Ordinance is hereby repealed.

Effect of repeal on breaches of the Arms Ordinance (Sec 12 Chapter 249)

(2) The provisions of sub-article (1) shall not affect any investigation, legal proceedings or remedy, in respect of breaches of the Arms Ordinance arising before the coming into force of this Act.

(3) Any investigations, legal proceedings, or remedy as referred to in sub-article (2) may be instituted, continued, or enforced and any penalty, forfeiture or punishment to which a person may have become liable before the coming into force of this Act may be ordered, imposed or enforced, as if this Act had not come into force.

Transitory provisions.

**67.** (1) Subject to the provisions of sub-paragraph (j) of article 65, every licence validly issued under the Arms Ordinance shall continue in force and shall continue to be valid and governed by the provisions of the said Ordinance notwithstanding its repeal by this Act.

(2) Subject to the provisions of sub-paragraph (j) of article 65, any person who on the day of the coming into force of this Act keeps or possesses any arm proper or ammunition when such keeping or possession was lawful under the Arms Ordinance repealed by this Act but is prohibited under the provisions of this Act shall be entitled to continue to keep or possess such arm proper or ammunition under the provisions of the said Ordinance as if it had never been repealed by this Act.

(3) Notwithstanding the repeal of the Arms Ordinance by this Act all regulations made under the said Ordinance shall, until such time as they are repealed or substituted by regulations made under this Act, remain in force and continue to have effect as if made under this Act except insofar as any such regulation is inconsistent with any of the provisions of this Act.

**SCHEDULE I**

**(Article 3)**

**PART I**

**PROHIBITED FIREARMS AND AMMUNITION**

1. Explosive military missiles and launchers
2. Automatic firearms
3. Firearms manufactured as automatic and subsequently converted to semi-automatic
4. Firearms disguised as other objects
5. Short firearms with barrels less than 9cm in length
6. Long firearms with smoothbore barrels which are less than 50 cm in length
7. Ammunition with armour piercing, explosive or incendiary projectiles and the projectiles for such ammunition
8. Ammunition that discharges a lethal or irritant substance such as teargas
9. Ammunition or projectiles of any kind that can be discharged by air weapons, other than specific air weapon ammunition
10. Pistol and revolver ammunition with expanding projectiles and the projectiles for such ammunition
11. Laser sights
12. Any device designed to muffle or reduce the report of a firearm except when such devices are intended for airguns
13. Essential components of any of the firearms mentioned in this Part, namely the breech closing mechanism, the chamber and the barrel of a firearm, which, being separate objects are included in the category of the firearms on which they are intended to be mounted.

**PART II - PROHIBITED ARMS**

1. Flick knives
2. Gravity knives
3. Butterfly knives
4. Knuckle dusters
5. Catapults

## **SCHEDULE II**

### **(Article 5)**

#### **PART I – FIREARMS AND AMMUNITION SUBJECT TO A LICENCE**

1. Semi-automatic or repeating short firearms with barrels not less than 9cm in length
2. Semi-automatic or repeating long firearms with rifled barrels
3. Single shot short firearms
4. Single shot long firearms with rifled barrels
5. Long firearms with smoothbore barrels which are not less than 50cm in length
6. Muzzle-loading firearms other than replicas of pre-1900 single shot muzzle-loading firearms
7. Firearms designed for alarm, signalling or lifesaving.
8. Airguns.
9. Essential components of firearms mentioned in this Part namely the breech closing mechanism, the chamber and the barrel of a firearm which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted.
10. Ammunition not listed under Part I of Schedule I.

#### **PART II - ARMS SUBJECT TO A LICENCE**

1. Crossbows
2. Harpoons used only for underwater fishing

**SCHEDULE III**

**FIREARMS AND OTHER OBJECTS SUBJECT TO A DECLARATION**

**(Article 35(3))**

**PART I – FIREARMS**

1. Firearms manufactured prior to 1900
2. Replicas of pre-1900 single shot muzzle loading firearms
3. De-activated firearms
4. Non-firing imitation firearms

**PART II – OTHER OBJECTS**

1. Edged weapons (such as swords, knives, bayonets and spears)

---

Passed by the House of Representatives at Sitting No. 294 of 20th July, 2005.

ANTON TABONE  
*Speaker*

RICHARD J. CAUCHI  
*Clerk to the House of Representatives*