



MONTSERRAT

## CHAPTER 10.02

### **FIREARMS ACT<sup>1</sup>** and Subsidiary Legislation

#### **Revised Edition**

showing the law as at 1 January 2019

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

#### **FIREARMS ACT**

Act 8 of 2000 .. in force 15 November 2000

Amended by Acts: 6 of 2001 .. in force 21 November 2001

9 of 2010 .. in force 1 March 2016 (S.R.O. 8/2016)

9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)

#### **FIREARMS (LICENCE FEES) REGULATIONS – Section 35**

S.R.O. 47/2002 .. in force 29 August 2002

Page

3

23

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Page

3

23

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**CHAPTER 10.02**

**FIREARMS ACT**

**ARRANGEMENT OF SECTIONS**

SECTIONS

1. Short title
2. Interpretation
3. Prohibited weapons and ammunition
4. Requirement for licence
5. Discharge of firearms prohibited
6. Firearm licence
7. Ammunition licence
8. Gun licence
9. Licences to rifle clubs
10. Other provisions relating to licensed rifle clubs
11. Firearm dealers
12. Licences
13. Variation of licences
14. Revocation of licences
15. Sales of firearms and ammunition
16. Possession of firearm with intent to injure
17. Use of firearm to resist arrest
18. Carrying firearm with criminal intent
19. Carrying firearm in a public place
20. Trespassing with firearm
21. Possession of firearms by persons previously convicted of crime
22. Storage of firearms and ammunition
23. Duty to report disposal, loss etc.
24. Acquisition and possession of firearm by minor
25. Supplying firearms to minors
26. Supplying firearms to person drunk or insane
27. Licensed firearm dealer may shorten shot gun barrel
28. Power to search
29. Production of licence
30. Powers of arrest
31. Prosecution and punishment of offences
32. Punishment for other offences
33. Presumptions
34. Power to order surrender of firearms

35. Regulations
36. Powers of Commissioner to store firearms
37. Application of Act to certain disciplined forces and to the Crown
38. Act to apply in certain cases

## CHAPTER 10.02

### FIREARMS ACT

*(Acts 8 of 2000, 6 of 2001, 9 of 2010 and 9 of 2011)*

AN ACT TO AMEND AND UPDATE THE LAW RELATING TO FIREARMS.

#### Commencement

*[15 November 2000]*

#### Short title

1. This Act may be cited as the Firearms Act.

#### Interpretation

2. In this Act, unless the context otherwise requires—

“**ammunition**” includes—

- (a) every shell, cartridge, bomb, hand grenade, or projectile containing any explosive or gas or chemical whether intended to be discharged from or by any gun or other propelling or releasing instrument or mechanism or not, except hand grenades which can be used only for the purpose of extinguishing fires and a marine signal rocket or flare;
- (b) every fuse, percussion cap, or priming cap, which could be used for the purpose of exploding any shell, bomb, hand grenade or other projectile;
- (c) an explosive when enclosed in any case or contrivance, or otherwise adapted or prepared so as to form a cartridge, charge or complete round of small arms, cannon, or any other weapon, or to form any tube for firing explosives, or to form a detonator, a projectile, or other contrivance than a fireworks, which can be used either singly or in suitable combinations, as, or in connection with, a missile; and
- (d) everything which can be declared by regulations to be ammunition;

“**ammunition licence**” means a valid licence issued under section 7;

“**annual licence**” is a licence valid for the calendar year specified therein;

“**antique firearm**” means a firearm manufactured prior to the year 1870 and for which ammunition is not ordinarily available;

“**Commissioner**” means the Commissioner of Police;

“**firearm**” means a lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged and includes—

- (a) any prohibited weapon, whether it is such a lethal weapon or not;
- (b) any component part of such a lethal or prohibited weapon;
- (c) any accessory to any such weapon designed or adapted to diminish the notice or flash caused by firing the weapon;
- (d) any Verey pistol or signal gun; and
- (e) any air rifle, air gun, air weapon or air pistol;

but does not include—

- (i) an antique firearm;
- (ii) a starting pistol;

**“firearm licence”** means a valid firearm licence issued under section 6;

**“good standing”** means fully paid up and not suspended from membership;

**“gun licence”** means a valid gun licence issued under section 8;

**“imitation firearm”** means anything which has the appearance of being a firearm (other than such a weapon as is mentioned in section 3(1)(vii)) whether or not it is capable of discharging any shot, bullet or other missile;

**“indictable offence”** means an offence triable on indictment, whether or not that offence is also triable summarily;

**“licensed”** means licensed under this Act;

**“member in good standing of a licensed rifle club”** included a person who is a member of a rifle club outside Montserrat who is present in Montserrat to take part in a sporting event organized by a licensed rifle club;

**“premises”** includes any land;

**“prescribed”** means prescribed by regulations under section 35;

**“prohibited weapon”** and **“prohibited ammunition”** means any weapon or ammunition mentioned in section 3;

**“public place”** includes a highway or estate road and any other premises or place to which at the material time the public have or are permitted to have access, whether by payment or otherwise;

**“regulations”** means regulations under section 35;

**“shot gun”** means a smooth-bore gun with a barrel not less than twenty four inches in length, not being an air gun;

**“slaughtering instrument”** means a firearm which is specially designed or adapted for the instantaneous slaughter of animals or for the instantaneous stunning of animals with a view to slaughtering them;

“**starting pistol**” means a pistol, designed for the firing of blank ammunition and which is not capable of being modified to fire live ammunition;

“**stud gun**” means a gun or tool designed to fix studs, fasteners or other objects by means of an explosive charge;

“**target practice**” includes a shooting competition;

“**transfer**” includes let on hire, give, lend and part with possession.

(2) For the purposes of this Act the length of the barrel of a firearm shall be measured from the muzzle to a point at which the charge is exploded on firing.

(3) For the purposes of this Act the things which a person has in his possession shall be taken to include anything subject to his control which is in the custody of another.

### Prohibited weapons and ammunition

3. (1) Subject of this Act, it is an offence for any person to—

- (a) have in his possession;
- (b) import;
- (c) carry;
- (d) manufacture;
- (e) supply or offer to supply to another; or
- (f) be concerned in the supplying to another of,  
any of the following—

- (i) any firearm which is 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 ammunition is empty;
- (ii) any weapon designed to fire any rocket designed to fire any rocket projectile and any such projectile;
- (iii) any mortar, anti-tank gun, bazooka or piece of artillery or the live ammunition therefor;
- (iv) any firearm the barrel of which is less than twenty four inches in length;
- (v) any firearm or ammunition which has been cut down, modified or otherwise changed from its original form other than a shot gun the barrel of which has been lawfully shortened under section 27;
- (vi) any air rifle, air weapon, air gun or air pistol;
- (vii) any firearm or ammunition which bears the appearance of having been manufactured in a place other than a place

where firearms or ammunition are normally manufactured for commerce or by a person other than a person engaged in the commercial manufacture of firearms or ammunition;

- (viii) any ammunition containing, or designed or adapted to contain, any noxious thing;
- (ix) any live bomb or live hand grenade except a hand grenade manufactured for the purpose of extinguishing fires.

(2) Nothing in this section shall apply to a firearm or ammunition held under the authority of a gun licence or, in the case of a firearm or ammunition held by a licensed firearm dealer, which would require such authority where he is not a licensed firearm dealer.

### Requirement for licence

4. (1) Subject to this Act, it is an offence for any person to—

- (a) have in his possession; or
- (b) import; or
- (c) carry; or
- (d) manufacture; or
- (e) repair or modify; or
- (f) supply or offer to supply to another; or
- (g) be concerned in the supplying to another of,

any firearm or ammunition without holding a licence for that purpose in force at that time; or otherwise as authorised by such licence.

(2) Notwithstanding subsection (1), a member in good standing may possess ammunition upon the premises of such a club without holding a licence therefor for the purpose of target practice with a licensed firearm upon a rifle range operated by the club upon such premises and such member may purchase or acquire such ammunition for such purpose from a person holding an ammunition licence.

### Discharge of firearms prohibited

5. (1) A person commits an offence if he discharges or causes the discharge of any shot, bullet or other missile from a firearm.

(2) Notwithstanding subsection (1) it shall be lawful—

- (a) for a member in good standing of a licensed rifle club to discharge a missile from a firearm upon a rifle range operated by a licensed rifle club during the course of target practice upon such range;

- (b) for a licensed firearm dealer to discharge a missile from a firearm during the course of repairing, testing or proving such firearm;
- (c) for the holder of a temporary firearm licence which has been granted for a particular purpose to discharge a missile from the licensed firearms if this is necessary to effect such purpose;
- (d) for the holder of a gun licence held in respect of a firearm specified in section 8(1)(b) to use such firearm in accordance with such licence.

### Firearm licence

6. (1) A firearm licence shall authorise the licensee to possess, purchase, acquire or import, in accordance with the terms thereof, the firearm identified in the licence.

(2) A firearm licence shall be either—

- (a) an annual licence; or
- (b) a temporary licence, valid for the period specified in the licence, being a period not in excess of sixty days.

(3) A firearm licence other than a temporary licence shall not be granted to a person who is not a member in good standing of a licensed rifle club or in respect of a prohibited weapon.

### Ammunition licence

7. (1) An ammunition licence shall authorise the licensee to possess, purchase, acquire or import, in accordance with the terms thereof, the ammunition specified in the licence.

(2) An ammunition licence may only be issued to—

- (a) an officer or servant of a licensed rifle club for ammunition required for the purposes of the club; or
- (b) the holder of a temporary firearm licence for ammunition for use in the firearm to which such an ammunition licence shall be valid for the period of validity of such temporary firearm licence only.

### Gun licences

8. (1) A gun licence shall authorise the licensee to possess, purchase, acquire or import, in accordance with the terms thereof—

- (a) a firearm or ammunition which in the opinion of the Commissioner can be possessed in safety as a curiosity or ornament;
- (b) the following weapons, and ammunition therefor—

- (i) a slaughtering instrument;
  - (ii) a stud gun;
  - (iii) a starting cannon;
  - (iv) a Verey pistol or signal gun;
- (c) ammunition for a starting pistol.

(2) A gun licence may be granted to a person in charge of any collection of firearms or ammunition which are not displayed to the public and shall authorise the possession of such firearms for the purposes of such display, and such licence may authorise the possession of any prohibited weapon or prohibited ammunition where the Commissioner is satisfied that such weapon or ammunition has been rendered safe.

(3) A rifle club licence shall be an annual licence.

### **Licences to rifle clubs**

9. (1) A rifle club licence shall authorise the club to which it is issued to maintain a rifle range at a place specified therein, to organize sporting events involving the use of firearms and to afford its members, being members in good standing, and their guests, being members in good standing of a licensed rifle club, facilities for target practice upon such range.

(2) No rifle club shall be granted a licence unless its rules have first been approved by the Commissioner, nor shall any amendment to such rules have any effect unless approved by the Commissioner.

(3) A rifle club licence shall be an annual licence.

### **Other provisions relating to licensed rifle clubs**

10. (1) The rules of a licensed rifle club shall make such provision as the Commissioner may require for the suspension from membership of persons who fail to take an active part in the sporting activities of the club.

(2) It shall be an offence for a licensed rifle club to admit any person and for any person to apply to be a member of a licensed rifle club if his membership has not been approved by the Commissioner, who may withhold such approval without giving reasons therefor.

(3) The Commissioner may, at any time, by notice to the Secretary or Chairman of a licensed rifle club, withdraw any approval given under subsection (2), whereupon the person in respect of whom approval has been withdrawn shall cease to be a member of the rifle club and shall surrender to the Commissioner within ten days of being notified of such withdrawal any licence held by virtue of such membership and any firearm or ammunition which he possesses under the authority of such licence.

(4) It is an offence for a person to fail to surrender a licence, firearm or ammunition as required by subsection (3).

(5) A licensed rifle club shall keep full records and shall within seven days after 31 March, 30 June, 30 September and 31 December in every year furnish the Commissioner with returns from its records showing—

- (a) the dates upon which functions involving the discharge of firearms were held by the club (whether alone or in conjunction with any other club) and the names of the members of the club participating in such functions; and
- (b) an account of the ammunition used at such functions where the functions took place at a rifle range other than a rifle range maintained by some other club.

(6) If any return is not furnished in accordance with subsection (5) or if such return is incomplete, misleading or inaccurate, or if any record required under the subsection to be kept is not kept, the Secretary, Chairman and members of the managing committee or governing body of the club are each guilty of an offence.

### Firearm dealers

11. (1) A person who holds a firearm dealer's licence may, without holding a firearm or ammunition licence, import, deal in, repair, test, prove and sell firearms and ammunition (not being prohibited weapons or prohibited ammunition) in the ordinary course of business in accordance with the terms of such licence at a place specified in the licence.

(2) A firearm dealer's licence shall be an annual licence.

(3) It shall be an offence for a licensed firearm dealer to keep or store any firearms or ammunition, without the written permission of the Commissioner, in any place other than the place specified in his licence.

(4) It is an offence for a firearm's dealer to—

- (a) fail to keep a stock-book in which the particulars of all firearms and ammunition in his possession are entered; or
- (b) fail to provide to the Commissioner, on or before the 6th day of February, May, August and November in each year, a true return showing the quantity and description of the firearms and ammunition remaining in his possession at the end of the last day of the preceding month.

(5) Every firearm dealer shall keep a register of transactions setting out—

- (a) the quantities and descriptions of firearms and ammunition purchased or acquired with the names and addresses of the sellers or transferors and the dates of the several transactions;
- (b) the quantities and descriptions of firearms accepted for sale, repair, test, proof, cleaning, storage, destruction or other purpose, with the names and addresses or transferors and the dates of the several transactions;

- (c) the quantities and descriptions of firearms and ammunition sold and transferred with the names and addresses of the purchasers and transferees (except in cases where the purchasers are transferors), and the dates of the several transactions,

and it shall be an offence for a firearm dealer to fail to make any entry in such register which by this subsection he is required to make, at the time of, or immediately after, the transaction to which it relates took place.

(6) It shall be an offence for a firearm dealer to fail, before the 15th day of every month, to forward to the Commissioner a true extract of the register maintained under subsection (5) in respect of all transactions entered into during the preceding month, or, if there have been no such transactions, a statement to that effect.

(7) It shall be an offence for a firearm dealer to fail to produce to any police officer bearing a written order in that behalf from the Commissioner, the stock-book and register referred to in subsections (4) and (5), and also to fail to allow the whole of his stock to be inspected and counted by such person.

## Licences

12. (1) Licences shall be granted by, or on the authority of, the Commissioner and shall—

- (a) be in the prescribed form;
- (b) specify the conditions subject to which they are granted and, in the case of a firearm or gun licence, the firearm to which it relates; and
- (c) not be transferable.

(2) No licence shall be granted to a person whom the Commissioner has reason to believe is of intemperate habits or unsound mind, or to be for any other reason unfit to hold licence.

(3) The Commissioner shall not grant a firearm or an ammunition licence unless he is satisfied that the applicant has good and sufficient reasons for having in his possession, or for purchasing or acquiring, the firearm or ammunition in respect of which the application is made, and can be permitted to have it in his possession without danger to public safety or peace.

(4) A licence may be renewed and this section applies to a renewal of a licence as it applies to a grant.

(5) An application for the grant of a licence shall be made in the prescribed form to the Commissioner.

(6) Such fees shall be payable for a licence as may be prescribed by regulations.

(7) It is an offence for a person not to comply with any condition subject to which a licence is issued.

(8) It is an offence for a person to make any statement which he knows to be false for the purpose of procuring, whether for himself or any other person, the grant or renewal of a licence.

(9) It is an offence for a person to make any alteration or erasure in a licence except under the authority of the Commissioner.

### Variation of licences

13. (1) The Commissioner may at any time by notice in writing vary the conditions subject to which a licence is held and may by the notice require the holder to deliver up the licence to him within ten days from the date of notice for the purpose of amending the conditions specified therein.

(2) It is an offence for a person to make a statement which he knows to be false for the purpose of procuring, whether for himself or another person, the variation of a licence.

### Revocation of licences

14. (1) A licence may be revoked by the Commissioner for any reason that he thinks fit, and without derogation from the generality of the provisions thereof he may revoke—

- (a) a firearm or ammunition licence if the holder is of intemperate habits or unsound mind or otherwise unfit to be entrusted with a firearm or ammunition;
- (b) a licence if the holder fails to comply with a notice under section 13(1) requiring him to deliver up the licence;
- (c) a licence if the holder is found guilty of an offence against this Act.

(2) Where a licence is revoked by the Commissioner under this section, he shall by notice in writing require the holder to surrender the licence and the gun and ammunition to which the licence relates; and it is an offence for the holder to fail to do so within ten days of the date of the notice.

### Sales of firearms and ammunition

15. (1) It shall be an offence for a person to sell, acquire or permit any person to acquire any firearm or ammunition—

- (a) for use within Montserrat unless the person purchasing or acquiring such firearm or ammunition presents, at or before the time of acquisition, a valid firearm licence or ammunition licence that permits the person purchasing or acquiring such firearm or ammunition to have such firearm or ammunition in his possession;

(b) for removal from Montserrat, unless the person purchasing or acquiring the firearm or ammunition presents, at or before the time of acquisition, a removal permit issued by the Commissioner.

(2) A removal permit shall take effect according to the terms thereof and it shall be a good defence to a charge of contravening any provision of this Act relating to the possession or supply of any firearm or ammunition that such firearm or ammunition was possessed or dealt with under the authority of such a permit for the purpose of removing such firearm or ammunition from Montserrat.

### **Possession of firearm with intent to injure**

16. It is an offence for a person to have in his possession any firearm or ammunition with intent by means thereof to endanger life or cause serious injury to property, or to enable another person by means thereof to endanger life or cause serious injury to property, whether any such danger to life or injury to property has been caused or not.

### **Use of firearm to resist arrest**

17. (1) It is an offence for a person to make or attempt to make any use whatsoever of a firearm or imitation firearm with intent to resist or prevent the lawful arrest or detention of himself or another person.

(2) For the purpose of this section, the definition of “**firearm**” in section 2 applies without paragraphs (b) and (c) of that definition and “**imitation firearm**” shall be construed accordingly.

### **Carrying firearm with criminal intent**

18. (1) It is an offence for a person to have with him a firearm or imitation firearm with intent to commit an indictable offence, or to resist arrest or to prevent the arrest of another person while he has the firearm or imitation firearm with him.

(2) In proceedings for an offence under this section, proof that the accused had a firearm or imitation firearm with him and intended to commit an offence, or to resist or prevent arrest, is evidence that he intended to have it with him while doing so.

### **Carrying firearm in a public place**

19. A person commits an offence if, without lawful authority or reasonable excuse (the proof of which lies on him) he has with him, in a public place any firearm (whether loaded or not).

### **Trespassing with firearm**

20. (1) A person commits an offence if, while he has a firearm with him, he enters or is in any building or part of a building as a trespasser and without reasonable excuse (the proof of which lies on him).

(2) A person commits an offence if, while he has a firearm with him, he enters or is on any land as a trespasser and without reasonable excuse (the proof of which lies on him).

### **Possession of firearms by persons previously convicted of crime**

21. (1) If a person has been sentenced in Montserrat or elsewhere to imprisonment or corrective training for an offence involving firearms, violence or threats of violence, it is an offence for that person to have a firearm or ammunition in his possession.

(2) It is an offence for a person to sell or transfer a firearm or ammunition to, or to repair, test or prove a firearm or ammunition for, a person whom he knows or has reasonable ground for believing to be prohibited by this section from having a firearm or ammunition in his possession.

### **Storage of firearms and ammunition**

22. (1) It is an offence for a person to store or keep any firearm or ammunition in a place other than a place of safety approved of by the Commissioner.

(2) It is an offence for any person to leave a firearm or ammunition in any place unless such firearm or ammunition is properly secured against removal—

(a) in a locked receptacle; or

(b) (in the case of a firearm) by means of a locking device,

in such manner as may be prescribed or the Commissioner may approve.

### **Duty to report disposal, loss etc.**

23. (1) It is an offence for a person who is the holder of a firearm licence—

(a) to transfer or otherwise dispose of the firearm to which the licence relates to a person who does not possess a firearm licence; or

(b) not to immediately inform the Commissioner of a transfer or other disposal of the firearm.

(2) It is an offence for a person ordinarily in possession of a firearm or ammunition to fail to inform the Commissioner—

(a) if the firearm or any of the ammunition cannot be found; or

(b) if there are grounds for believing or suspecting that the firearm or any of the ammunition is improperly in the possession or under the control of another person.

(3) If a person who holds a firearm or ammunition licence has been given reasonable notice in writing by the Commissioner to produce to the

Commissioner for inspection the firearm or any of the ammunition to which the licence relates, it is an offence for the person to fail to comply with the notice.

### **Acquisition and possession of firearm by minor**

**24. (1)** It is an offence for a person under the age of seventeen to purchase or hire any firearm or ammunition.

**(2)** It is an offence for a person under the age of fourteen to have in his possession any firearm or ammunition.

### **Supplying firearms to minors**

**25. (1)** It is an offence to sell or let or hire any firearm or ammunition to a person under the age of seventeen.

**(2)** It is an offence—

*(a)* to make a gift of or lend any firearm or ammunition to a person under the age of fourteen; or

*(b)* to part with the possession of any firearm or ammunition to a person under the age of fourteen.

**(3)** In proceedings for an offence under subsection (1) or (2) it is a defence to prove that the person charged with the offence believed the other person to be of or over the age mentioned in that provision and had reasonable ground for the belief.

### **Supplying firearm to person drunk or insane**

**26.** It is an offence for a person to sell or transfer any firearm or ammunition to, or to repair, prove or test any firearm or ammunition for, another person whom he knows or has reasonable cause for believing to be under the influence of drink or a drug or of unsound mind.

### **Licensed firearm dealer may shorten shot gun barrel**

**27.** Notwithstanding section 3, a licensed firearm dealer may shorten the barrel of a shotgun to a length not less than twenty four inches.

### **Power to search**

**28. (1)** If a Justice of the Peace or a Magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence against this Act has been, is being, or is about to be committed, he may grant a search warrant authorizing a police officer named therein to enter at any time any premises or place named in the warrant, if necessary by force, and to search the premises or place and every person found there.

**(2)** If a police officer has reasonable grounds to suspect that any person is unlawfully in possession of any firearm or ammunition, the police officer may, without warrant—

- (a) search that person, and detain him for the purposes of searching him;
  - (b) search any vehicle or vessel in which the police officer suspects that any article liable to seizure may be found, and for that purpose require the person in control of the vehicle or vessel to stop it.
- (3) No female shall be searched under this section except by a woman police officer.
- (4) The power to search under this section shall extend to any receptacle or other article then in the possession of the person being searched and subsection (3) shall not apply to any such receptacle or article not being part of the wearing apparel of the female at the time of the search.
- (5) A person commits an offence if he intentionally obstructs a person in the exercise of his powers under this section.
- (6) Any firearm or ammunition in respect of which an offence under this Act has been committed shall, with effect from the seizure thereof, be forfeited to the Crown.
- (7) Nothing in this section shall prejudice any power of search or any power to seize or detain property which is exercisable by any police officer under the law.

### **Production of licence**

29. (1) A police officer may demand, from any person who he believes to be in possession of a firearm or ammunition, the production of his licence.
- (2) If a person upon whom a demand is made under this section fails to produce the licence or to show he is entitled by virtue of this Act to have the firearm or ammunition in his possession without holding the licence, the police officer may seize and detain the firearm or ammunition and may require the person to declare to him immediately his name and address.
- (3) If under this section a person is required to declare to a police officer his name and address, it is an offence for him to refuse to declare it or to fail to give his true name and address.

### **Powers of arrest**

30. (1) A police officer may arrest without warrant a person who has committed or is committing, or whom the police officer, with reasonable cause suspects to have committed, or to be committing, an offence under this Act.
- (2) This section shall not prejudice any power of arrest conferred by any other law.

## Prosecution and punishment of offences

**31. (1)** A person who discharges a firearm while committing or attempting to commit an indictable offence, or during flight after committing or attempting to commit an indictable offence, whether or not he causes or means to cause bodily harm to any person as a result thereof, commits an offence under this subsection and is liable on conviction on indictment—

(a) in the case of a first offence under this subsection, subject to paragraph (b)(ii), to a term of imprisonment for ten years; and

(b) in the case—

(i) of a second or subsequent offence under this subsection;  
or

(ii) of a first offence under this subsection committed by a person who, prior to the commencement of this Act, was convicted of an indictable offence or an attempt to commit an indictable offence in the course of which, or during his flight after the commission or attempted commission of the offence, he discharged a firearm,

to imprisonment either for life or for such lesser term (not however, being less than ten years) as the court thinks fit.

*(Amended by Act 6 of 2001)*

**(2)** A sentence of imprisonment imposed on a person convicted of an offence under subsection (1) shall be served consecutively to any other punishment imposed on him for an offence arising out of the same event or series of events and to any other sentence to which he is subject at the time the sentence is imposed on him for an offence under subsection (1).

**(3)** Notwithstanding anything in section 201 of the Criminal Procedure Code Act proceedings for an offence under this Act may be commenced at any time within twelve months from the time when the offence was committed. *(Amended by Act 9 of 2010)*

**(4)** Section 201 of the Criminal Procedure Code Act shall not have effect in relation to any offence under this Act. *(Amended by Act 9 of 2010)*

**(5)** Notwithstanding section 340 of the Penal Code, a person who attempts to commit an offence under this Act, or who solicits, incites, procures or conspires with another to commit an offence under this Act, is guilty of an offence and is liable to the same punishment as is provided for that offence.

**(6)** A person who is charged on indictment with an offence under section 15, 16, 17, 18 or 19 may, in addition to or as an alternative to a conviction under any of those sections, be convicted of the offence of having in his possession a firearm or ammunition contrary to section 3(1)(a).

### Punishment for other offences

**32.** A person who is found guilty of an offence under this Act (other than an offence, under section 31(1)) is liable, on conviction on indictment—

- (a) in the case of a first offence, to a term of imprisonment for five years; and
- (b) in the case of a first offence, where such offence is possessing a single firearm or ammunition not exceeding 50 rounds in violation of section 4(1)(a), to a fine of \$5,000; and
- (c) in the case of—
  - (i) a second or subsequent offence; or
  - (ii) a first offence committed by a person who, prior to the commencement of this Act, was convicted of an indictable offence, or an attempt to commit an indictable offence,to a term of imprisonment not less than seven years.

*(Substituted by Act 6 of 2001)*

### Presumptions

**33. (1)** In a prosecution under this Act and without prejudice to any other provision of this Act—

- (a) where it is proved that a person imported anything containing a firearm or ammunition it shall be presumed, until the contrary is proved, that such person knew that such firearm or ammunition was contained in such thing; and
- (b) where it is proved that a person had in his possession or custody or under his control anything containing a firearm or ammunition, it shall be presumed until the contrary is proved, that such person was in possession of such firearm or ammunition.

**(2)** The presumptions provided by subsection (1) shall not be rebutted by proof that a person never had physical possession of the firearm or ammunition.

**(3)** The presumptions provided by subsection (1) shall not be construed as requiring the prosecution to prove any fact which by virtue of any other provision of this Act or other statutory provisions, the prosecution does not have to prove.

**(4)** A firearm is deemed not to be an antique firearm until the contrary is proved.

### Power to order surrender of firearms

**34. (1)** The Governor acting on the advice of the Cabinet may, by order published in the *Gazette*, where he is of the opinion that it is expedient in the interests of the public safety or public order so to do, order the surrender to the Government of all firearms and ammunition specified in the order for so

long as the Governor acting on the advice on the Cabinet considers necessary.

(2) It is an offence for any person having the possession or control of a firearm or ammunition to fail to surrender such firearm or ammunition in accordance with an order made under subsection (1).

(3) The Commissioner shall, in accordance with section 36, store any firearms and ammunition that are surrendered under this section.

(4) The Governor acting on the advice of Cabinet may if he thinks it necessary in the interest of public order grant an amnesty to any person who, having been in possession of unlicensed firearms or ammunition, surrenders them to the Government when called upon to do so. (*Amended by Act 9 of 2011*)

### Regulations

35. (1) The Governor acting on the advice of Cabinet may make regulations—

- (a) prescribing the form of licences under this Act, returns and other documents;
- (b) prescribing fees for licences under this Act;
- (c) prescribing the requirements to be satisfied in respect of a place where arms or ammunition are to be stored or kept before such place may be approved by the Commissioner as being a place of safety for the purposes of section 22, and for the manner in which such place is to be secured;
- (d) prescribing the manner by which any notice under this Act may be given;
- (e) controlling or regulating the importation, sale, possession or use of hand bombs and grenades manufactured for the purpose of extinguishing fires, and the application of this Act in relation to such bombs and hand grenades;
- (f) prescribing anything which, by this Act, is permitted or required to be prescribed;
- (g) generally for carrying this Act into effect,

and regulations may make different provisions for different cases.

(2) Regulations made under subsection (1) shall be laid before the Legislative Assembly and shall be subject to a negative resolution within ninety days thereof. (*Amended by Act 9 of 2011*)

### Powers of Commissioner to store firearms

36. (1) Subject to section 28(6), the Commissioner may store firearms or ammunition that come into the hands of the police.

(2) No liability shall rest upon any member of the police service or any person acting under such member's direction in respect of any loss of or damage to any firearms or ammunition stored under this section.

*(Amended by Act 9 of 2011)*

(3) Where any firearm or ammunition has been stored under this section for two years such firearm or ammunition is deemed to be abandoned and may be disposed of in such manner as the Commissioner may direct.

### **Application of Act to certain disciplined forces and to the Crown**

**37. (1)** Nothing in this Act shall render unlawful the possession, carrying, using or repairing of any firearm or ammunition issued to any person who is a—

- (a) police officer, special constable or police junior cadet;
- (b) member of the Royal Montserrat Defence Force;
- (c) member of Her Majesty's armed forces; or
- (d) member of the Customs Department,

for the execution of his duty, or dealt with by the person in the execution of his duty.

(2) Nothing in this Act shall render unlawful the possession of a firearm or ammunition by a public officer of the Customs Department where such firearm or ammunition comes into the possession of such officer in the execution of his duty under the Customs Duties and Consumption Tax Act or any other enactment.

### **Act to apply in certain cases**

**38. (1)** Nothing in this Act shall apply or have effect so as to derogate from or abridge any provisions of any law which relates to firearms or ammunition in the possession of, or carried or used by, members of any foreign delegation when duly authorised in that behalf.

(2) Nothing in this Act shall apply to any firearms or ammunition on board any ship or aircraft, which is a ship of war, or a military aircraft, of a foreign nation.

(3) Nothing in this Act shall apply to any firearms or ammunition consigned to some place outside Montserrat and in transit on any vessel as bona fide cargo and entered on the manifest.

(4) Nothing in this Act shall prevent an owner or master of any vessel which has had a port of call outside Montserrat from having in his custody upon such vessel any arms or ammunition if he declares the presence of such arms or ammunition to a public officer of the Customs Department at the first reasonable opportunity after entering Montserrat.

(5) A public officer of the Customs Department or a police officer may at any time take possession of any firearm or ammunition declared, or

which should have been declared under subsection (4), and it is an offence for any person to fail to surrender such firearm or ammunition when required to do so by such an officer.

(6) Where any firearm or ammunition has been taken possession of under subsection (5) then, upon the departure from Montserrat of the vessel upon which such firearm or ammunition was brought into Montserrat, the Commissioner may grant a removal permit authorizing the removal of such firearm or ammunition from Montserrat upon such vessel, and section 15(2) applies to such permit.

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## FIREARMS (LICENCE FEES) REGULATIONS

### ARRANGEMENT OF REGULATIONS

#### REGULATION

1. Short title
2. Licence Fees
3. Possession of a firearm
4. Fees for annual licence
5. Selling or transferring gun
6. Licence

SCHEDULE: Gun/Ammunition Licence

### FIREARMS (LICENCE FEES) REGULATIONS – SECTION 35

(S.R.O. 47/2002)

#### Commencement

[29 August 2002]

#### Short title

1. These Regulations may be cited as the Firearms (Licence Fees) Regulations.

#### Licence Fees

2. (1) The following fees shall be payable for a temporary gun licence valid for sixty days from the date of issue for—

(a) a revolver or pistol .....	\$25
(b) a rifle.....	\$25
(c) a shotgun.....	\$25
(d) an air weapon.....	\$25

(2) The following fees shall be paid for an ammunition licence which shall be valid for so long as the licence for the gun for which the ammunition is to be kept is valid—

(a) in respect of rifles, revolvers, pistols and shotguns .....	\$10
(b) in respect of air guns.....	\$5

#### Possession of a firearm

3. Any person presently in possession of a firearm or ammunition for which no valid licence has been issued shall, by 31 August, 2002, pay all fees that would have

been due from 1 January, 2002 or the date of purchase (of which the proof shall be on him) whichever is later, or surrender the said gun or ammunition to the Commissioner of Police.

#### **Fees for annual licence**

4. The following fees shall be payable for an annual gun licence or ammunition licence from 31 January 2003 for—

(a)	a revolver or pistol.....	\$240
(b)	a rifle .....	\$180
(c)	a shotgun .....	\$150
(d)	an air-gun.....	\$90
(e)	an ammunition licence in respect of rifles, revolvers, pistols and shotguns.....	\$60
(f)	an ammunition licence in respect of air guns .....	\$30
(g)	a gun licence.....	\$250
(h)	a rifle club licence .....	\$350

#### **Selling or transferring gun**

5. Where any licensed owner of a gun sells or transfers or otherwise gives up or loses possession of the gun, he shall surrender his gun licence and ammunition licence and any live ammunition immediately to the Commissioner of Police.

#### **Licence**

6. A licence shall be in the form set out in the Schedule hereto.

**SCHEDULE**

**GUN/AMMUNITION LICENCE\***

**TEMPORARY/ANNUAL\***

Issued to: .....

Address: .....

Address at which firearm will be kept .....

Type and model of firearm .....

Serial No. and make .....

Licensed period from ..... to.....

Fee .....

Make, quantity and calibre of ammunition that may be prescribed .....

Receipt No. ....

Issuing Officer .....

Signature .....

Note: This licence is personal and does not authorise any person other than the licensee to handle the firearm with or without the permission of the licensee.

Conditions for issue:

.....  
.....  
.....

\*Delete whatever is inapplicable

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