

THE KHYBER PAKHTUNKHWA ARMS ACT, 2013.

(KHYBER PAKHTUNKHWA ACT NO. XXIII OF 2013)

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THE KHYBER PAKHTUNKHWA ARMS ACT, 2013.
(KHYBER PAKHTUNKHWA ACT NO. XXIII OF 2013)

[First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa (Extraordinary), dated the 20/09/2013].

AN
ACT

to regulate the manufacture, conversion, repair, sale, transport, bearing or possession of arms or ammunition in the Province of the Khyber Pakhtunkhwa.

Preamble.---WHEREAS it is expedient to regulate the manufacture, conversion, repair, sale, transport, bearing or possession of arms or ammunition in the Province of the Khyber Pakhtunkhwa, in the manner hereinafter appearing;

It is enacted as follows:

CHAPTER -I
PRELIMINARY

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Arms Act, 2013.

(2) It shall extend to the whole of the Khyber Pakhtunkhwa,

(3) It shall come into force at once.

2. Exception.---Nothing contained in this Act, shall apply to the sale, transportation, bearing or possession of arms or ammunition by order of the Federal Government, or by a public servant of the Federal Government or non-regular forces raised or maintained by Federal Government, in the course of his duty as such public servant or member.

3. Definitions.---(1) In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

(a) "ammunition" includes-

(i) ammunition of all types or light and heavy automatic

weapons, revolvers, pistols, rifles, carbines, muskets
and shotguns;

(b)

(©)

(ai)

(iii)

(iv)

(v)

(vi)

ammunition constructed and modified for firing
projectiles or gas or smoke containers;

gun wads, gun flints, percussion caps, fuses, friction
tubes and detonators;

all types of grenades, bombs, rockets, mines and fuels
for flame throwers;

all types of explosives, fulminating material and
propellants, including all articles specially designed for
torpedo operation and depth charges ;

all parts of ammunition, but does not include lead,
sulphur or saltpeter;

“arms” includes-

(i)

(ai)

(iii)

(iv)

cannon,

fire-arms of all types, such as light and heavy
automatic and semiautomatic weapons, rifles, carbines,
muskets, shotguns (whether single or double barreled),
revolvers, pistols and appliances the object of which is
the silencing of fire-arms;

air pistols, bayonets, swords, sword-sticks, daggers,
knives with blades of four inches or more (but not
kitchen knives or knives used in good faith for the
carrying on of a profession and _flick-knives
irrespective of the blade ;

knuckle -dusters, spears, spear-heads, bows and arrows and parts of arms;

“cannon” includes-

(i)

(ii)

(iii)

all types of artillery, mortars, machine and sub-machine guns;

silencers for all machines and sub-machine guns;

anti-tank rifles and recoil-less guns or rifles and bazookas;

(d)

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(g)

(h)

(i)

(iv) revolvers or pistols over 0.46 inches bores ;

(v) nuclear weapons of all types ;

(vi) projectors, guided missiles, and dischargers for grenades, rockets, bombs, gas or smoke containers and dynamites;

(vii) flame throwers of all types ;

(viii) all carriages, platforms and appliances for mounting or transporting cannon ; and

(ix) parts of cannon; and

“flick-knife” means a knife which has a blade which opens automatically by hand pressure applied to a button, spring, or other device in, or attached to the handle of the knife, and includes any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or by the application of centrifugal force and which, when released, is locked in place by means of a button, spring lever or other device;

“Government” means the Government of the Khyber Pakhtunkhwa;

“license” means a license granted under this Act;

“military stores” means any stores which the Federal Government may, by notification in the official Gazette,

declare to be military stores;

“Province” means the Province of the Khyber Pakhtunkhwa; and

“rules” mean rules made under this Act.

(2) Government may, by notification in the official Gazette, declare any article or substance not specified in clauses (a), clause (b) or clause (c) of sub-section (1), to be, as the case may be, ammunition, arms or cannon for the purposes of this Act, and on the publication of such notification, such article or substance shall be

deemed to be specified in the said clause (a), clause (b) or clause (c), as may be notified.

CHAPTER -II MANUFACTURE, SALE AND REPAIR

4. Unlicensed manufacture, sale and repair prohibited.---(1) No person shall manufacture, keep, sell, offer or expose for sale,an arms or ammunition, or undertake the repairs of any arms, except under a license and in the manner and to the extent permitted thereby.

(2) Nothing herein contained shall prevent any person from selling any arms or ammunition which he lawfully possesses for his own private use to any person who is not by any enactment for the time being in force prohibited from possessing the same, but every person so selling arms or ammunition to any person shall, without unnecessary delay, give to the Deputy Commissioner, Incharge of the nearest police station or to any other officer authorized by the Government, notice of the sale and of the purchaser's name and address.

5. Power to prohibit transport.---Government may, from time to time, by notification in the official Gazette, regulate or prohibit the transport of any description of arms or ammunition over the whole of the Province or any part thereof either altogether or except under a license and to the extent and in the manner permitted by such license.

Explanation.---Arms or ammunition transshipped at a port in the Province are transported within the meaning of this section.

6. Power to establish searching posts.---Government may, at any place along the boundary line between the Province and an Acceding State or adjoining areas and at such distance within such line as it deems expedient, or at any place in the Province that it may deem proper, establish searching posts at which any person, vessel, vehicle or any other type of transport or any type of package or container in transit may be stopped and searched for arms or ammunition by any officer empowered by Government in this behalf by name or by virtue of his office.

7. Arrest of persons conveying arms, etc., under suspicious circumstances. --
-(1) When any person is found carrying or conveying any arms or ammunition, whether covered by a license or not, in such manner or under such circumstances as to afford just grounds of suspicion that the same are being carried or conveyed by him with intent to use them, or that the same may be used for any unlawful purpose any person may without warrant apprehend him and take such arms or ammunition from him.

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

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

CHAPTER -III

GOING ARMED AND POSSESSING ARMS, ETC.

8. Prohibition of going armed without license.---(1) No person shall go armed with any arms except under a license and to the extent and in the manner permitted thereby.

(2) Any person so going armed without a license or in contravention of its provision maybe disarmed by any Magistrate, police officer or other person empowered by Government in this behalf by name or by virtue of his office.

(3) Nothing in sub-sections (1) and (2) shall apply to a person carrying arms under a written authority issued in accordance with the rules.

9. Unlicensed possession of arms etc.--- No person shall have in his possession or under his control any arms or ammunition, except under a license and in a manner and to the extent permitted thereby.

10. In certain cases arms to be deposited at police station or with licensed dealers.---(1) Any person possessing arms or ammunition, the possession whereof, has, in consequence of the cancellation or expiry of a license or of an exemption or the death of the licensee or otherwise, become unlawful, shall without unnecessary delay deposit the same either with the officer in-charge of the nearest police station or, at his option and subject to such conditions as Government may by rules prescribe, with a licensed dealer:

Provided that where, within one month of the expiry of a license an application for its renewal has been made by registered post or by hand, the retention by the holder of such license of the arms or ammunition covered by the license, shall deem to be lawful until such time as the license has been renewed or its renewal refused.

(2) When arms or ammunition have been deposited under sub-section (1), the depositor, or in case of his demise, his legal heir, shall, at any time before the expiry of such period as Government may by rules prescribe, be entitled-

(a) to receive back anything so deposited the possession of which by him or his legal heirs has become lawful; and

(b) to dispose, or authorise the disposal, of anything so deposited by sale or otherwise to any person whose possession of the same would be lawful, and to receive the proceeds of any such sale:

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

(3) All things deposited under sub-section (1) and not returned or disposed of under sub-section (2) Within the prescribed period therein referred to, shall be forfeited to Government.

(4) Government may make rules consistent with this Act for carrying into effect the provisions of this section.

(5) In particular and without prejudice to the generality of the foregoing provisions, Government may by rules prescribe-

(a) the conditions subject to which arms or ammunition may be deposited with a licensed dealer; and

(b) the period after the expiry of which things deposited as aforesaid shall be forfeited under sub-section (3).

CHAPTER -IV LICENSES

11. Power to make rules as to licenses.---Government may, from time to time, by notification in the Official Gazette, make rules to determine the officers by whom, the form in which and the terms and conditions on and subject to which any license shall be granted, or renewed, and may by such rules among other matters-

(a) fix the period for which such licenses shall continue in force;

(b) fix a fee payable by stamp or otherwise in respect of any such license;

(c) direct that the holder of any such license shall keep a record or account, in such form as Government may prescribe, of anything done under such license, and exhibit such record or account when called upon to do so by an officer of Government authorized in this behalf;

(d) empower any officer of Government to enter and inspect any premises in which arms or ammunition are kept by any person holding a license of the description referred to in section 4;

(e) direct that any such person shall exhibit the entire stock of arms or ammunition in his possession or under his control to any officer of Government so empowered; and

(f) require the person holding any license or acting under any license to produce the same and to produce or account for the arms or ammunition covered by the same when called upon to do so by an officer of Government so empowered.

12. Powers of the Government as to description and _licensing.---(1) Government may, by notification in the official Gazette, specify the description, caliber or bore of arms and ammunition for prohibited and non-prohibited bores for the purpose of this Act.

(2) A license for the arms and ammunition notified under sub-section (1) shall be issued by Government.

(3) Licenses issued under this Act shall be valid to the extent of the Province:

Provided that Government may, specifically, validate it, to the extent of all Pakistan.

13. Prohibition of keeping, carrying, or displaying arms.---(1) The Government may, by general or special order, prohibit the keeping, carrying or display of arms at such places or times or on such occasions, as may be specified in the order.

(2) In particular, and without prejudice to the generality of sub-section (1), an order issued thereunder may prohibit-

(a) the keeping of arms within the premises of educational institutions and the premises of the hostels or boarding and lodging houses relating or affiliated thereto; and

(b) the carrying or display of arms at fairs or in gatherings or processions of a political, religious, ceremonial or sectarian character or in the premises of Courts of law or public offices.

(3) Any person keeping, carrying or displaying any arms in contravention of an order issued under sub-section (1) may be disarmed by the Magistrate, police officer or other person empowered by Government in this behalf.

14, Cancellation and suspension of licenses.---(1) Any license may be cancelled or suspended-

(a) by the officer by whom the same was granted or by any authority to which he may be subordinate, or any Deputy Commissioner within the local limits of whose jurisdiction the holder of such license may be, when for reasons to be recorded in writing and after giving the holder of the license an opportunity of showing cause against the proposed cancellation or suspension, such officer or authority deems it necessary for the security of the public peace to cancel or suspend such license; or

(b) by Magistrate before whom the holder of such licensee is convicted of an offence in contravention of the provisions of this Act or the rules made thereunder and Government may, by a notification in the official Gazette, cancel or suspend all or any license throughout the Province or Country or any part thereof.

(2) An appeal against an order of cancellation or suspension under clause (a) of sub-section (1) may be made by the person whose license has been cancelled or suspended to the immediate officer superior to the authority making the order, within sixty days of the receipt by him of a copy of the order where appeal lies to Government, and where appeal lies to any other authority, within thirty days of the receipt by him of a copy of the order.

CHAPTER -V PENALTIES

15. Penalty for breach of sections 4, 5, 8, 9, 10 and 11.--- '[1)] Subject to the provisions of section 16, whoever commits any of the following offences, namely:

(a) manufactures, sells, or keeps, offers or exposes for sale, any arms or ammunition, or undertakes the repairs of any arms in contravention of the provisions of section 4;

'Re-numbered vide Khyber Pakhtunkhwa Act No. IX of 2015

(b)

(c)

(d)

(e)

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(h)

(i)

fails to give notice of the sale of arms and ammunition
and of the purchaser's name and address as required by section
4;

transports any arms or ammunition in contravention of a
regulation or prohibition issued under section 5 ;

goes armed in contravention of the provisions of section 8;

has in his possession or under his control any arms or
ammunition in contravention of the provisions of section 9;

fails to deposit arms or ammunition as required by section 10;
intentionally makes any false entry in a record or account
which by a rule made under clause (d) of section 11 he is

required to keep;

intentionally fails to exhibit anything which by a rule made
under clause (f) of section 11, he is required to exhibit; or

keeps, carries or displays any arms in contravention of an
order issued under section 12,

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

both'[,]

*[Deleted.]

3[(2) the offences under sub-section (1), shall be bailable:

Provided that the offence in respect of prohibited bore weapons shall
be non-bailable and shall be punishable with imprisonment for term not less than
three years.]

16. Penalty for manufacture, transportation, repair, sale and possession of arms etc. except under a license.---(1) whoever,-

(a)

manufactures, transports, sells or keeps, offers or exposes for sale, a cannon, grenade, rocket launcher, bomb, anti-aircraft gun, missile, HMG, improvised explosive devices or ammunition etc. which can be fired from such arms; or

'Replaced vide Khyber Pakhtunkhwa Act No. IX of 2015

*Deleted vide Khyber Pakhtunkhwa Act No. IX of 2015

*Added vide Khyber Pakhtunkhwa Act No. IX of 2015

(b) goes armed with any of the arms or ammunition referred to in clause (a), in contravention of the provisions of section 8; or

(c) has in his possession or under his control any of the arms or weapons referred to in clause (a) or ammunition which can be fired from such arms, in contravention of the provisions of section 9, shall be punished with imprisonment which may extend to 25 years but not less than ten years and his property, whether moveable or immovable, shall be forfeited.

(2) Any carrier used for the transportation of any illicit arms or ammunition shall also be liable to immediate confiscation and such carrier alongwith the illicit arms or ammunition shall be surrendered to the Provincial Police.

Explanation.---In this section "carrier" also includes a vessel, aircraft, vehicle or animal.

17. Certain breaches of sections 4, 6, 9 and 25.---Whoever, on any search being made under section 25, conceals or attempts to conceal any arms or ammunition, shall be punished with imprisonment for a term which may extend to seven years, or with fine or with both:

Provided that the punishment for an offence committed of any-

(a) cannon, grenade, bomb or rocket; or

(b) light or heavy automatic weapon, rifle of 0.303 bore or over musket of 0.410 bore or over or pistol or revolver of 0.441 bore or ammunition which can be fired from such weapon, rifle, musket, pistol or revolver, shall be punished with imprisonment for a term not less than three years.

18. Certain offences triable by Magistrate.---An offence punishable under section 15 or section 17 shall unless it has been committed in respect of any of the arms or ammunition referred to in the proviso to the said section 15, be triable by a Magistrate.

19. Breach of license.---Whoever, in violation of a condition subject to which a license has been granted, does or omits to do any act shall, when the doing or omitting to do such act is not punishable under section 15 or section 17, be punished with fine which may extend to three thousand rupees.

20. Knowingly purchasing arms, etc. from unauthorized _persons.---
Whoever,-

(a) knowingly purchases any arms or ammunition, from any person not licensed or authorized under sub-section (2) of section 4 to sell the same; or

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

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

Provided that if such offence is committed in respect of canon, grenade, bomb or rocket or light or heavy automatic weapon, rifle of 0.303 bore or over musket of 0.410 bore or over a pistol or revolver of 0.441 bore or over, or ammunition which can be fired from such weapons, rifle, musket, pistol or revolver, shall be punished for imprisonment for a term which is not less than three year.

21. Penalty for breach of rules.---Any person violating any provision of any rule made under this Act for the violation of which no penalty is provided by this Act, shall be punished with fine, which may extend to two thousand rupees.

22. Penalty for failure to give information under section 27.---Any person who in the absence of reasonable excuse, the burden of proving which shall lie upon such person, fails to give information to the Magistrate or the officer of the nearest police station in respect of any offence under sub-section (1) or sub-section (2) of section 27 of which he becomes aware or which he has reason to suspect, shall be punished with imprisonment for a term which may extend to one year and with fine which may extend to five thousand rupees.

23. Penalty for refusing or neglecting to produce arms.---Any person refusing or neglecting to produce any arms when so required under section 30 shall be punished with imprisonment for a term, which may extend to three months or with fine, which may extend to two thousand rupees, or with both.

24, Power to confiscate.---When any person is convicted of any offence punishable under this Act, committed by him in respect of any arms or ammunition, it shall be in the discretion of the committing Court or Magistrate further to direct that the whole or any portion of such arms or ammunition and any vessel, vehicle or any other type of transport used to convey the same, and any type of package or container in which the same may have been concealed, together with the other contents of such package or container shall be confiscated:

Provided that where such conviction is in respect of an offence punishable under this Act with imprisonment for not less than one year, the trial court convicting such person shall direct that the whole of such arms or ammunition shall be confiscated.

CHAPTER -VI MISCELLANEOUS

25. Search and seizure by Magistrate.---Whenever any Magistrate or an officer in-charge of a police station has reason to believe that any person residing within the local limits of his jurisdiction:

(a) has in his possession any arms or ammunition for any unlawful purpose; or

(b) that such person cannot be left in the possession of any such arms or ammunition without danger to the public peace; such Magistrate or such police officer having first recorded the grounds of his belief, may cause a search to be made of the house or premises occupied by such person or in which such Magistrate or such police officer has reason to believe such arms or ammunition are or is to be found, and may seize and detain the same, although covered by license or exemption, in safe custody for such time as he thinks necessary.

26. Seizure and detention by Government.---Government may at any time order or cause to seize any arms or ammunition in the possession of any person, notwithstanding that such person is lawfully entitled to possess the same, and may detain the same for such time as it thinks necessary for the public safety.

27. Information be given regarding offences.---(1) Every person aware of the commission of any offence punishable under this Act shall, in the absence of reasonable excuse, the burden of proving which shall lie upon such person, give information of the same to the Deputy Commissioner or Magistrate or officer of the nearest police station.

(2) Every person employed upon any railway or by any public carrier shall, in the absence of reasonable excuse, the burden of proving which shall lie upon such person, give information to the Deputy Commissioner or Magistrate or officer of the nearest police station regarding any package or container in transit which he may have reason to suspect contains arms or ammunition in respect of which an offence against this Act has been or is being committed.

28. Searches in the case of offences how conducted.---When a search is to be made for any of the purposes of this Act, such search shall be made under the provisions of the Code of Criminal Procedure 1898 (Act V of 1898).

29. Operation of other laws not barred.---Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made thereunder or from being liable under such other law to any higher punishment or penalty than that provided by this Act:

Provided that no person shall be punished twice for the same offence.

30. Power to take census Of arms.---(1) Government may, from time to time, by notification in the official Gazette, direct a census to be taken of any arms in any area, and empower any person by name or in virtue of his office to take such census.

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

31. Power to exempt.---Government may, from time to time, by notification in the official Gazette, or in exceptional circumstances by a written order, exempt any person by name or in virtue of his office, or any class of persons, or exclude any description of arms or ammunition, or withdraw any part of the Province from the operation of any prohibition or direction contained in this Act.

32. Notice and limitation of proceedings.---No suit, prosecution or other proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act.

33. Repeal and savings.---(1) The West Pakistan Arms Ordinance, 1965 (Ord. XX of 1965), except the provisions relating to military stores, to the extent of the Khyber Pakhtunkhwa Province is hereby repealed.

(2) Notwithstanding the aforesaid repeal, anything done, action taken, rules made, and notification or order issued under the aforesaid Act, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done; taken, made or issued, under this Act, and shall have effect accordingly.